

Third District Court of Appeal

State of Florida

Opinion filed November 18, 2015.
Not final until disposition of timely filed motion for rehearing.

No. 3D14-1008
Lower Tribunal No. 11-34295

Bank of America, N.A.,
Appellant,

vs.

Manuel A. Vidal,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Spencer Eig,
Judge.

Wm. David Newman, Jr. (Fort Lauderdale), for appellant.

Michael Schiffrin; Ross & Girtten and Lauri Waldman Ross, for appellee.

Before EMAS, FERNANDEZ and SCALES, JJ.

PER CURIAM.

Bank of America, N.A. appeals an order denying its motion to vacate a voluntary dismissal of its foreclosure complaint against Manuel and Suzanne Vidal. Upon our review of the record below, it is apparent that the trial court concluded it was without jurisdiction to consider the motion. This was an erroneous conclusion, and we therefore reverse and remand.¹ See Wells Fargo Bank, NA v. Haecherl, 56 So. 3d 892 (Fla. 4th DCA 2011). We express no opinion on the legal sufficiency or the merits of the motion to vacate.

Reversed and remanded for proceedings consistent with this opinion.

¹ We review *de novo* the trial court's legal determination that it was without jurisdiction to consider the motion to vacate. See Southern Baptist Hosp. of Fla., Inc. v. Welker, 908 So. 2d 317 (Fla. 2005); Nissen v. Cortez Moreno, 10 So. 3d 1110 (Fla. 3d DCA 2009).