

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

DYCK-O'NEAL, INC.,

Appellant,

v.

Case No. 5D17-1059

ROBERT GERMANY AND LINDA K.
PLANT-GERMANY,

Appellees.

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Opinion filed February 23, 2018

Appeal from the Circuit Court
for Putnam County,
Scott C. Dupont, Judge.

David M. Snyder, of David M Snyder, PA,
Tampa, Susan B. Morrison, of Law Offices
of Susan B. Morrison, P.A., Tampa, and
Joshua D. Moore, of Law Offices of Daniel
C. Consuegra, Tampa, for Appellant.

Douglas N. Burnett, and M. Aaron Dukes,
St. Johns Law Group, St. Augustine, for
Appellee Linda K. Carroll.

No appearance for other Appellee.

EDWARDS, J.

Dyck-O'Neal, Inc. ("DONI") appeals the summary judgment granted in favor of
Appellee, Linda Carroll f/k/a Linda K. Plant-Germany. DONI correctly argues that the trial

court erred in finding DONI's action time-barred. See *Chrestensen v. Eurogest, Inc.*, 906 So. 2d 343, 344 (Fla. 4th DCA 2005) (holding that the statute of limitations to seek a deficiency judgment does not begin to run until after the entry of foreclosure judgment and subsequent foreclosure sale). We also decline Appellee's suggestion that we affirm the final summary judgment based on a ground that she did not raise below. See *Trainor v. PNC Bank, Nat'l Ass'n*, 211 So. 3d 366, 368 (Fla. 5th DCA 2017).¹

Therefore, we reverse the summary judgment entered in favor of Appellee and remand for further proceedings consistent with this opinion. We also deny Appellee's motion for attorney's fees.

REVERSED AND REMANDED.

PALMER and LAMBERT, JJ., concur.

¹ *Kinney v. Countrywide Home Loans Servicing, L.P.*, 165 So. 3d 691 (Fla. 2015), is inapplicable to this case; thus, Appellee should not have offered it as a legal basis for summary judgment, and the trial court erred in relying upon it.