

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

PATRICIA A. ASSELTA, INDIVIDUALLY  
AND AS TRUSTEE OF THE PATRICIA A.  
ASSELTA REVOCABLE LIVING TRUST,

Appellant,

v.

Case No. 5D20-1687

ALPHA PRIME II, LLC, EXCEL WEST RIO,  
LLC, GARY J. PAPA, COQUINA LAKES  
CONDOMINIUM ASSOCIATION, INC., OCEANS  
PALMS HOMEOWNERS ASSOCIATION, INC.,  
AND DEREK MUEHRCKE,

Appellees.

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Opinion filed July 16, 2021

Appeal from the Circuit Court  
for St. Johns County,  
R. Lee Smith, Judge.

C. Popham Decunto and Kevin A.  
Schoeppel, of Durant, Schoeppel  
& Decunto, P.A., Jacksonville, for  
Appellant.

Riley Cirulnick and Craig A.  
Pugatch, of Lorium Law, Fort  
Lauderdale, for Appellees.

SASSO, J.

Appellant, Patricia A. Asselta, both individually and as Trustee of the Patricia A. Asselta Revocable Living Trust, appeals the final judgment of foreclosure entered in favor of Alpha Prime II, LLC (“Alpha Prime”). Because we are bound by this court’s decision in *Shephard v. Ouellete*, 854 So. 2d 251, 252–53 (Fla. 5th DCA 2003), we conclude we have jurisdiction.

On the merits, we agree with Appellant that there is a disputed issue of material fact as to the amount of indebtedness for two reasons. First, the trial court erred in its determination as to the principal balance owed because the undisputed evidence demonstrated the subject mortgage limited this amount to \$800,000. Second, the undisputed evidence established that Alpha Prime garnished \$11,649.42 from Appellant’s bank account and Appellant paid \$18,000.00 in mortgage payments throughout the pendency of the action. However, the final judgment does not reflect a reduction for these amounts. Furthermore, there is a genuine issue of material fact as to the proper application of a credit for these amounts.

Accordingly, we reverse and remand for additional proceedings consistent with this opinion. In all other respects, we affirm.

REVERSED and REMANDED.

EDWARDS and EISNAUGLE, JJ., concur.