

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

SALOON SAO,

Appellant,

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

v.

CASE NO. 1D12-4575

WELLS FARGO BANK, N.A.,

Appellee.

_____ /

Opinion filed April 4, 2013.

An appeal from the Circuit Court for Duval County.
Hugh A. Carithers, Judge.

Wendell Finner, Jacksonville Beach, for Appellant.

Linda Spaulding White of Broad and Cassel, Fort Lauderdale, for Appellee.

PER CURIAM.

Appellant challenges the trial court's order denying his motion to quash service of process, set aside judgment, sale, and order of writ of eviction based upon the court's failure to conduct an evidentiary hearing. Appellee properly

concedes error. “[A] trial court is required to conduct an evidentiary hearing before entering an order denying a motion to set aside a judgment.” Palacio v. Alaska Seaboard Partners Ltd. P’hip, 50 So. 3d 54 (Fla. 1st DCA 2010) (citing Seal v. Brown, 801 So. 2d 993, 994–95 (Fla. 1st DCA 2001)). “Furthermore, if a moving party's allegations raise a colorable entitlement to relief, a formal evidentiary hearing and appropriate discovery is required.” Id. Therefore, we REVERSE and REMAND for an evidentiary hearing.

LEWIS, THOMAS, and MAKAR, JJ., CONCUR.