

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

SETH S. BRIER,
Appellant,

v.

**DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR
BCAP LLC TRUST 2007-AA2, AGRI SALES USA, INC., ATLAS PEAT &
SOIL, INC., CEMEX, INC., HAMBLIN VILLAGE HOMEOWNERS
ASSOCIATION, INC., OLYMPIA MASTER ASSOCIATION, INC., PALM
BEACH NEWSPAPERS, INC., and WOOD MULCH PRODUCTS, INC.**
Appellees.

No. 4D17-2934

[February 7, 2018]

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Howard H. Harrison, Judge; L.T. Case No. 50-2016-CA-001600-XXXX-MB.

Henry B. Handler and David K. Friedman of Weiss, Handler & Cornwell, P.A., Boca Raton, for appellant.

Sara F. Holladay-Tobias, Emily Y. Rottmann, and C.H. Houston III of McGuireWoods LLP, Jacksonville, for Deutsche Bank National Trust Company, as Trustee for BCAP LLC Trust 2007-AA2.

ON CONFESSION OF ERROR

PER CURIAM.

Appellee Deutsche Bank filed a complaint to foreclose on a mortgage. Appellant responded with an answer and eleven affirmative defenses, two of which were later stricken. The bank moved for summary judgment, addressing appellant's remaining affirmative defenses only by generally claiming they lacked factual and legal support and were not pled with specificity. The trial court granted the bank's motion. The bank has confessed error, stipulating that final summary judgment should be reversed. *See Seale v. Regions Bank*, 121 So. 3d 649, 650 (Fla. 4th DCA 2013) ("[I]n mortgage foreclosure cases, summary judgment is precluded if affirmative defenses are not factually refuted or shown to be legally

insufficient.”). As such, we reverse and remand with instructions for the trial court to vacate the final judgment of foreclosure.

Reversed and remanded with instructions.

GERBER, C.J., WARNER and LEVINE, JJ., concur.

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Not final until disposition of timely filed motion for rehearing.