

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

ERROL O. BOOTHE,
Appellant,

v.

U.S. BANK NATIONAL ASSOCIATION,
Appellee.

No. 4D17-3273

[March 7, 2018]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Joel T. Lazarus, Judge; L.T. Case No. CACE 12-025009 (11).

Catherine A. Riggins, Miami, for appellant.

Chase A. Berger of Berger Firm, P.A., Miami, for appellee.

PER CURIAM.

The Borrower appeals from a September 19, 2017 order denying his September 5, 2017 “Emergency Motion to Vacate Sale Entered on September 28, 2016, Vacate Certificate of Title and to Stay and Vacate Writ of Possession.”

The trial court lacked jurisdiction to enter the order because the borrower’s appeal (4D17-2697) from an earlier motion to vacate writ of possession was still pending. *See Fla. R. App. P. 9.130(f)*. We therefore do not reach the merits of this appeal and instead quash the September 19 order as void. *See Rivas v. Bank of New York Mellon*, 43 Fla. L. Weekly D167 (Fla. 4th DCA Jan. 17, 2018) (quashing order denying motion to vacate foreclosure judgment as void without reaching merits of the order where the order was entered while appeal from foreclosure judgment was pending). In so doing we express no comment on the merits of the court’s denial of the September 5 motion.

In light of our disposition, we deny the Bank’s motion to dismiss appeal as moot.

Appellant is reminded that this court has already affirmed the trial court's order denying appellant's motion to vacate the sale in case number 4D16-4313.

Order quashed.

LEVINE, CONNER and FORST, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.