

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2005

BENEFICIAL MORTGAGE CO. OF FLORIDA, a Delaware corporation,
Appellant,

v.

CHARLES T. OXIDINE, UNKNOWN SPOUSE OF CHARLES T. OXIDINE; if any; and all unknown parties claiming by, through, under and against the above named Defendant who are unknown to be dead or alive whether said unknown are persons, heirs, devisees, grantees, or other claimants; JAY CALLOWAY OF CALLOWAY CONSTRUCTION, SCHMUEL KISSIN, D.D.S., ALLSTATE INSURANCE COMPANY, STATE OF FLORIDA, DEPARTMENT OF REVENUE, on behalf of ADALAINE WILSON, GUADALUPE MUNOZ, f/k/a GUADALUPE OXIDINE, TENANT I, Unknown Tenant, TENANT II, Unknown Tenant, in possession of the subject real property,
Appellees.

No. 4D04-1356

[May 18, 2005]

PER CURIAM.

Beneficial Mortgage Company of Florida (Beneficial) appeals from a trial court's order dismissing with prejudice its foreclosure action against Charles T. Oxidine.

Beneficial asserts that the trial court erred in entering an order vacating a final judgment and dismissing the foreclosure action with prejudice upon Beneficial's motion to vacate the final judgment and the dismissal without prejudice. We agree and reverse and remand to the trial court to enter an order dismissing without prejudice.

Reversed and Remanded.

GUNTHER, POLEN and HAZOURI, JJ., concur.

* * *

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; John D. Wessel, Judge; L.T. Case No. CL 00-8668 AW.

Gary I. Gassel of the Law Offices of Gary I. Gassel, P.A., Sarasota, for appellant.

No appearance for appellees.

Not final until disposition of any timely filed motion for rehearing.