

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2012

DANIEL WILLIAM BECKER,
Appellant,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, as trustee of The Indymac INDX Mortgage Trust 2007-FLX3, mortgage pass-through certificates, series 2007-FLX3 under the pooling and service agreement dated April 3, 2007; unknown spouse of Daniel William Becker; **CITY OF PEMBROKE PINES, FLORIDA**; and unknown person(s) in possession of the subject property,
Appellees.

No. 4D11-1149

[May 9, 2012]

PER CURIAM.

Daniel Becker (“the homeowner”) appeals a summary judgment granting a mortgage foreclosure brought by the lender. He argues the trial court erred in entering summary judgment because the complaint was improperly verified and genuine issues of material fact precluded the entry of summary judgment. We find no error and affirm.

After the lender filed a complaint to foreclose the mortgage, the homeowner failed to respond, and a default was entered against him. He then retained counsel, who filed a combined motion to vacate the default, motion to dismiss the complaint, and written opposition to the motion for summary judgment the day before the summary judgment hearing.

The homeowner argued error in the entry of a summary judgment because the lender did not properly verify its complaint. More specifically, he argued that because the verification was attached to the complaint as a separate document rather than incorporated within it, the complaint failed to state a cause of action. Alternatively, he argued genuine issues of material fact precluded summary judgment.¹ The

¹ The homeowner has not provided us with an order denying his motion to vacate the default and dismiss the complaint, a transcript of that hearing, or a

homeowner refers to conflicting trial court decisions throughout this district and others that have either accepted or rejected complaints when the verification was not incorporated within the complaint.

We find no requirement in Florida Rule of Civil Procedure 1.110(b) that the verification be contained within the complaint. The rule provides in part:

When filing an action for foreclosure of a mortgage on residential real property the complaint shall be verified. When verification of a document is required, the document filed shall include an oath, affirmation, or the following statement:

“Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged therein are true and correct to the best of my knowledge and belief.”

Fla. R. Civ. P. 1.110(b).

Nothing in the rule prohibits the verification from starting on a separate page. All that the rule requires is that the document include “an oath, affirmation, or the following” identified language. We will not read more into the rule than its plain language dictates. *See, e.g., Trucap Grantor Trust 2010-1 v. Pelt*, 37 Fla. L. Weekly D 622 (Fla. 2d DCA Mar. 14, 2012) (holding trial court erred in relying on section 92.525(2), Fla. Stat. (2010), requiring verification that the facts are “true” instead of rule 1.110(b), which was recently promulgated for foreclosure actions). The contention that a separate verification document violates rule 1.110(b) places form over substance. That we will not do.

For the reasons stated, we affirm the summary judgment.

Affirmed.

MAY, C.J., DAMOORGIAN and CONNER, JJ., concur.

* * *

transcript of the summary judgment hearing. We are confined to the record provided. *Applegate v. Barnett Bank of Tallahassee*, 377 So. 2d 1150 (Fla. 1979). Without a sufficient record, there is nothing for us to review. *Fleming v. Peoples First Fin. Sav. & Loan Ass’n*, 667 So. 2d 273, 274 (Fla. 1st DCA 1995).

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Michael L. Gates, Judge; L.T. Case No. 10-28291 (11).

Carol C. Asbury of Save My Home Law Group, Fort Lauderdale, for appellant.

Serena Kay Tibbitt and H. Michael Muniz of Kahane & Associates, P.A., Plantation, for appellee Deutsche Bank National.

Not final until disposition of timely filed motion for rehearing.