

Third District Court of Appeal

State of Florida

Opinion filed December 23, 2015.
Not final until disposition of timely filed motion for rehearing.

No. 3D15-1599
Lower Tribunal No. 14-24391

Thriving Investments, LLC,
Appellant,

vs.

Anthony Chao, et al.,
Appellees.

An Appeal from a non-final order from the Circuit Court for Miami-Dade County, John Schlesinger, Judge.

Shutts & Bowen, LLP, and Alette D. Rodz, Stephen T. Maher, and Alfredo L. Gonzalez, Jr., for appellant.

Reyes Law Group, P.A., and Phillip A. Ortiz (Davie); Edward F. Holodak, P.A. (Plantation); Louis C. Arslanian (Hollywood); Obront Corey, PLLC, and Michael J. Corey, for appellees.

Before ROTHENBERG, SALTER and LOGUE, JJ.

LOGUE, J.

Thriving Investments, LLC, a third-party purchaser, appeals the denial of its motion to set aside a final judgment of foreclosure. After purchasing a property at a judicial foreclosure sale, the third-party purchaser apparently became aware that the final judgment might have foreclosed only a second mortgage and the purchased property might be subject to a first mortgage. The third-party purchaser moved to set aside the final judgment upon which the foreclosure sale was based. In moving to set aside the final judgment, which had been agreed to by the parties to the foreclosure action, the third-party purchaser contended that the foreclosing plaintiff lacked standing to foreclose, the judgment awarded excess interest, and the underlying motion for summary judgment contained factual misrepresentations. The trial court properly held that the third-party purchaser was a stranger to the foreclosure action and lacked standing to vacate the final judgment of foreclosure. This appeal is accordingly dismissed because “[t]he general rule is that a non-party is a stranger to the record who cannot transfer jurisdiction to the appellate court.” YHT & Assocs., Inc. v. Nationstar Mortg. LLC, 40 Fla. L. Weekly D2208 (Fla. 2d DCA Sept. 30, 2015) (citations and quotations omitted).

Dismissed.