

# Third District Court of Appeal

State of Florida

Opinion filed January 17, 2018.

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No. 3D16-55

Lower Tribunal No. 15-8326

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**Deutsche Bank National Trust Company, as Trustee for Morgan Stanley ABS Capital 1 Inc. Trust 2006-NC5, Mortgage Pass-Through Certificates, Series 2006-NC5,**  
Appellant,

vs.

**SFL Property Holding LLC, et al.,**  
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Robert J. Luck, Judge.

McGlinchey Stafford, and N. Mark New II, Karin L. Posser, and William L. Grimsley (Jacksonville), for appellant.

Wesoloski Carlson, P.A. and Erik D. Wesoloski, for appellee, SFL Property Holding, LLC.

Before SUAREZ, LAGOA, and SALTER, JJ.

ON CONFESSION OF ERROR

PER CURIAM.

Deutsche Bank National Trust Company (“Deutsche Bank”), the plaintiff below, appeals the trial court’s order granting final summary judgment in favor of the defendant below, SFL Property Holding LLC (“SFL Property”), and dismissing the instant mortgage foreclosure action. The trial court found that the action was barred by the statute of limitations.

Based upon the record before us and the defendant’s confession of error, we reverse the trial court’s order granting the motion for summary judgment and remand to the trial court for reinstatement of the complaint. See Bartram v. U.S. Bank Nat’l Ass’n, 211 So. 3d 1009 (Fla. 2016); Deutsche Bank Tr. Co. Ams. v. Beauvais (“Beauvais II”), 188 So. 3d 938 (Fla. 3d DCA 2016) (en banc);<sup>1</sup> see also, e.g., Bollettieri Resort Villas Condo. Ass’n v. Bank of N.Y. Mellon, 228 So. 3d 72 (Fla. 2017); Wells Fargo Bank, NA v. BH–NV Invs. 1, LLC, 230 So. 3d 60 (Fla. 3d DCA 2017); Wells Fargo Bank, N.A. v. Spence, 213 So. 3d 1142 (Fla. 3d DCA 2017); Arnoux v. Bank of N.Y., 193 So. 3d 82 (Fla. 3d DCA 2016).

Reversed and remanded for reinstatement of the complaint.

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<sup>1</sup> We note that the trial court did not have the benefit of Bartram or this Court’s en banc opinion, Beauvais II, when it entered final judgment in favor of SFL Property.