

SUPREME COURT OF FLORIDA

Dyck-O'Neal, Inc. v. Heather Lanham

257 So. 3d 1 (Fla. 2018) · No. SC17-975 · Decided July 5, 2018

SUMMARY

The Florida Supreme Court held that section 702.06, Florida Statutes (2014), permits a lender or assignee to bring an independent action at law for a deficiency judgment when a foreclosure court reserved jurisdiction over the deficiency claim but did not adjudicate it. The Court quashed the First District's decision, disapproved *Higgins v. Dyck-O'Neal, Inc.*, and approved contrary decisions from the Second, Third, Fourth, and Fifth District Courts of Appeal.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Lawson, J.; Canady, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Polston, J.; Labarga, J.
JURISDICTION	Florida
DECIDED	July 5, 2018
DOCKET	SC17-975
DISPOSITION	quashed
PROCEDURAL POSTURE	Dyck-O'Neal sought review of a First District Court of Appeal decision that held a separate deficiency-judgment action was barred because the foreclosure court had reserved jurisdiction over the deficiency claim. The Florida Supreme Court accepted discretionary review based on certified conflict among the district courts of appeal.
STANDARD OF REVIEW	Questions of statutory interpretation are reviewed de novo.
PRECEDENTIAL VALUE	binding precedent
PARTIES	Dyck-O'Neal, Inc. v. Heather Lanham

TOPICS

- foreclosure
- statutory interpretation
- appellate jurisdiction
- remedies
- civil procedure

PRACTICE AREAS

- foreclosure
- real estate
- civil procedure
- appellate procedure
- statutory interpretation

QUESTIONS PRESENTED

1. Whether section 702.06, Florida Statutes (2014), permits a lender or its assignee to bring a separate action at law for a deficiency judgment when the foreclosure court reserved jurisdiction over the deficiency claim but did not grant or deny the claim.

HOLDINGS

1. Section 702.06, Florida Statutes (2014), permits a lender or its assignee to bring an independent action at law for a deficiency judgment when the foreclosure court expressly reserved jurisdiction over the deficiency claim but did not actually grant or deny the claim.

KEY QUOTATIONS

“A reservation of jurisdiction is not a grant or denial of the claim.” (3)

“section 702.06, Florida Statutes (2014), permits an independent action at law for a deficiency judgment when the foreclosure court has expressly reserved jurisdiction to handle a deficiency claim but has not actually decided the merits of the claim.” (4)

FACTUAL BACKGROUND

A foreclosure judgment involving Heather Lanham's residential property expressly reserved jurisdiction for a future deficiency claim. The foreclosure court never adjudicated the deficiency claim. Dyck-O'Neal, which had been assigned the mortgage and note, filed a separate action at law to recover the deficiency.

PROCEDURAL HISTORY

Lanham's residential property was foreclosed, and the foreclosure judgment reserved jurisdiction over any future deficiency claim. Dyck-O'Neal, the assignee of the mortgage and note, filed a separate action at law seeking a deficiency judgment. The trial court granted summary judgment for Lanham on an assignment-validity issue. The First District quashed that decision without reaching the assignment issue, concluding that the separate action was barred by section 702.06 because the foreclosure court had reserved jurisdiction. The Florida Supreme Court quashed the First District's decision and approved the contrary decisions of the Second, Third, Fourth, and Fifth District Courts of Appeal.

DISPOSITION

quashed

CASES CITED

- Dyck-O'Neal, Inc. v. Lanham, 214 So. 3d 802 (Fla. 1st DCA 2017)
- Garcia v. Dyck-O'Neal, Inc., 178 So. 3d 433 (Fla. 3d DCA 2015)
- Dyck-O'Neal, Inc. v. Hendrick, 200 So. 3d 181 (Fla. 5th DCA 2016)
- Gdovin v. Dyck-O'Neal, Inc., 198 So. 3d 986 (Fla. 2d DCA 2016)
- Dyck-O'Neal, Inc. v. McKenna, 198 So. 3d 1038 (Fla. 4th DCA 2016)

- Borden v. East-European Ins. Co., 921 So. 2d 587, 591 (Fla. 2006)
- Holly v. Auld, 450 So. 2d 217, 219 (Fla. 1984)
- A.R. Douglass, Inc. v. McRaney, 137 So. 157, 159 (Fla. 1931)
- Higgins v. Dyck-O'Neal, Inc., 201 So. 3d 157 (Fla. 1st DCA 2016)

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