

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2012

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

JP MORGAN CHASE BANK, N.A.,

Appellant,

v.

Case No. 5D12-208

WELLS FARGO BANK, N.A., ETC.,

Appellee.

_____/

Opinion filed December 28, 2012

Non-Final Appeal from the Circuit Court
for Volusia County,
Robert K. Rouse, Jr., Judge.

Dennis M. Campbell and Tania M. Varela,
of Campbell Law Firm, PLLC, Coral
Gables, for Appellant.

Enrico G. Gonzalez, Temple Terrace, for
Appellee.

PER CURIAM.

JP Morgan Chase Bank, N.A. (hereafter Chase) appeals the Order Denying Chase Home Finance, LLC's Motion to Vacate Default Final Judgment entered in a foreclosure suit filed by Wells Fargo Bank, N.A. (hereinafter Wells Fargo).¹ Chase argues that the trial court abused its discretion in denying Chase's motion to vacate because Wells Fargo knew, based on an amended complaint filed by Chase in a

¹ Chase is the successor, by merger, to Chase Home Finance, LLC.

parallel foreclosure action involving the same property that named Wells Fargo as a defendant and alleged that Chase's mortgage had priority over all other mortgages, that Chase intended to defend the Wells Fargo action.² Chase further argues that the attorney for Wells Fargo knew of Chase's intent to defend before he sought and obtained the ex-parte default against Chase.

We agree with Chase that, based on the allegations in Chase's amended complaint, Wells Fargo knew of Chase's intent to defend the suit filed by Wells Fargo and that the subsequently entered default judgment, which was entered without notice to Chase, is void. See Makes & Models Magazine, Inc. v. Web Offset Printing Co., Inc., 13 So. 3d 178 (Fla. 2d DCA 2009); U.S. Bank Nat'l Ass'n v. Lloyd, 981 So. 2d 633 (Fla. 2d DCA 2008). Accordingly, we reverse the order under review and remand for further proceedings.

REVERSED and REMANDED.

SAWAYA, LAWSON and BERGER, JJ., concur.

²This court has jurisdiction over this non-final appeal pursuant to Florida Rule of Appellate Procedure 9.130(a)(5) ("Orders entered on an authorized and timely motion for relief from judgment are reviewable by the method prescribed by this rule.").