

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D26749
O/prt

_____AD3d_____

Submitted - March 9, 2010

JOSEPH COVELLO, J.P.
ANITA R. FLORIO
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2009-05199

DECISION & ORDER

Deutsche Bank National Trust Company, etc.,
appellant, v Robin Pestano, et al., defendants,
Florence Glay, respondent.

(Index No. 20235/04)

Fein, Such & Crane, LLP (Sanders, Gutman & Brodie, P.C., Brooklyn, N.Y. [Robert Gutman and D. Michael Roberts] of counsel), for appellant.

Albanese & Albanese, LLP, Garden City, N.Y. (Barry A. Oster of counsel), for respondent.

In an action to foreclose a mortgage, the plaintiff appeals from a decision of the Supreme Court, Kings County (Archer, J.H.O.), dated January 29, 2009, which, after a hearing, found that service of process was improper.

ORDERED that the appeal from the decision is dismissed, with costs, as no appeal lies from a decision (*see Schicchi v Green Constr. Corp.*, 100 AD2d 509).

COVELLO, J.P., FLORIO, ENG and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

March 30, 2010

DEUTSCHE BANK NATIONAL TRUST COMPANY v PESTANO