

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL
CIRCUIT OF FLORIDA IN AND FOR SAINT LUCIE COUNTY,
GENERAL JURISDICTION DIVISION
CASE NO: 2013-CA-001130

U.S. BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR
THE HOLDERS OF CSFB ARMT 2005-6A,
Plaintiffs,

vs.

MATT DIMANT; BRIDGETT DIMANT, et al.,
Defendant(s).

**JUDGMENT GRANTING DEFENDANT'S MOTION FOR INVOLUNTARY DISMISSAL AND
ORDER DISMISSING CASE**

~~THIS ACTION~~ came before the Court for Trial on January 12, 2016. All parties were present and announced to the Court that they were ready for Trial. The Court reviewed the evidence presented by the parties, hearing the testimony of the plaintiff's witness and oral arguments of counsel and being otherwise fully advised, finds as follows:

1. The Mortgage dated May 13, 2005 was executed by Borrowers, Matt Dimant a married man and Bridgett Dimant, his wife, payable to the alleged Lender, America's Wholesale Lender, which is stated to be a New York Corporation. The Mortgage states that: "the Note states that Borrower owes Lender \$391,900.00.
2. The Note is in the amount of \$391,900.00, and states that the alleged Lender "is America's Wholesale Lender".
3. The Court finds that:
 - a. America's Wholesale Lender, a New York Corporation, and the alleged "Lender", specifically named in the mortgage, did not file this action, did not appear at Trial, and did not assign any of the interest in the mortgage.
 - b. America's Wholesale Lender, stated to be a New York Corporation, the alleged

Lender in this case, was not licensed as a mortgage lender in Florida in the year 2005, or, thereafter, as evidenced by the certified copy of a letter from the State of Florida Office of Financial Regulation provided to the Court by Defendants at trial.

c. America's Wholesale Lender, stated to be a New York Corporation, did not have authority to do business in Florida under Florida Statute 607.1506.

d. The alleged Assignment of Mortgage by MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC FOR AMERICA'S WHOLESALE LENDER, which purported to transfer interest in this mortgage and note to U.S. Bank, National Association, as trustee for the Holder of CSFB ARMT 2005-6A on June

12, 2012 is invalid because MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. (MERS), for America's Wholesale Lender had no authority to assign the ownership interest of said mortgage, because MERS was not the owner of the subject mortgage and was only a nominee for America's Wholesale Lender, an alleged New York Corporation which was a non-existent Corporation. Said purported assignment was without authority, and, therefore invalid.

e. The alleged undated blank indorsement by COUNTRYWIDE HOME LOANS, INC. DOING BUSINESS AS AMERICA'S WHOLESALE LENDER is a direct violation of Florida Statute 677.501(1)(a) which provides that the document must be first negotiated by the named person's indorsement and delivery.

f. Plaintiff provided no evidence that Countrywide Home Loans ever received the loan documents to accomplish a legal transfer of the loan as required by FS 673.2011. In addition, there is no evidence provided by Plaintiff of the relationship between America's Wholesale Lender, Countrywide Home Loans, d/b/a America

Wholesale Lender, Countrywide Home Loans Inc., Countrywide Bank, N.A. or Bank of America, N.A. Applicable law provides that ownership of a note by a subsidiary does not give a parent the right to enforce the note. Gainus Wright, III and Cyd R. Wright v. JP Morgan Chase, N.A., 4D14-565 (Fla. 4th DCA, July 1, 2015). In addition as indicated by the Florida Office of Financial Regulation Certificate, there is no record of licensure for COUNTRYWIDE HOME LOANS INC.'s DBA AMERICA'S WHOLESALE LENDER after February, 14, 2002.

g. The notice of default required by paragraph 22 of the mortgage and a condition precedent to the filing of a foreclosure lawsuit, provided by Plaintiff at trial contains an address that is not the property address, and the stated cure date is exactly 30 days from the date of the letter (providing no time for mailing and delivery to Defendants). Plaintiff provided no proof that Defendants requested that they be contacted at an address other than the property address. Therefore, all conditions precedent to the filing of this lawsuit were not met by Plaintiff.

4. Based upon the foregoing, the Plaintiff, U.S. BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE HOLDERS OF CSFB ARMT 2005-6A, has no standing to bring this action and has also failed to meet all conditions precedent to bringing this action. The case is dismissed without prejudice.

5. The Defendant is the prevailing party and the court reserves jurisdiction to hear appropriately filed motions for attorney fees and costs.

DONE AND ORDERED in Chambers at St. Lucie County, Florida this 12 day of February, 2016.



Circuit Court Judge

~~BT~~ Conformed Copies to:

~~Scott Brown, Esquire
Lourdes M. Sanchez-Barcia, Esquire
Robertson, Anschutz & Schneid, P.L.
6409 Congress Ave., Suite 100
Boca Raton, FL 33487
~~lsanchezbarcia@rasflaw.com
mail@rasflaw.com~~~~

~~Kelley A. Bosecker, Esquire
1400 Gandy Boulevard, #706
St. Petersburg, FL 33702
~~kbosecker@tmo.blackberry.net
sbosecker@tampabay.rr.com~~~~

COPY

COPY

COPY