

Electronically Filed
Intermediate Court of Appeals
CAAP-15-0000107
23-MAR-2017
08:11 AM

NO. CAAP-15-0000107

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

NATIONSTAR MORTGAGE LLC, Plaintiff/Counterclaim
Defendant-Appellee, v. RUTH C. ALEJANDRO; JOY D. PASALO;
ROMMELL ANTONIO P. AGTAGMA; LORNA D. AGTAGMA; FERNANDO D.
DANSALAN; SHIRLEY F. DANSALAN; JEFFY DANSALAN,
Defendants/Plaintiffs Counterclaimants-Appellants,
THE MAUI LANI COMMUNITY ASSOCIATION; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC., SOLELY AS NOMINEE FOR
FREMONT INVESTMENT LOAN; STATE OF HAWAII-DEPARTMENT
OF TAXATION; THE MAUI COMMUNITY ASSOCIATION,
Defendants/Appellees, and JOHN DOES 1-50; JANE DOES 1-50;
DOE PARTNERSHIPS 1-50; DOE CORPORATIONS 1-50; DOE ENTITIES
1-50; DOE GOVERNMENTAL UNITS 1-50, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIVIL NO. 13-1-0590(3))

SUMMARY DISPOSITION ORDER

(By: Fujise, Presiding Judge, Leonard and Ginoza, JJ.)

Defendants/Plaintiff Counterclaimants-Appellants Ruth
C. Alejandro, Joy D. Pasalo, Rommel Antonio P. Agtagma, Lorna D.
Agtagma, Fernando D. Dansalan, Shirley P. Dansalan, and Jeffy
Dansalan (Appellants) appeal from the January 28, 2015 Judgment
and challenge the January 28, 2015 Findings of Fact, Conclusions
of Law, and Order Granting Plaintiff's Motion for Summary
Judgment Against All Parties and for Interlocutory Decree of

Foreclosure Filed April 15, 2014 (Summary Judgment Order), which were both entered by the Circuit Court of the Second Circuit (Circuit Court).¹

On appeal, Appellants primarily contend that Plaintiff/Counterclaim Defendant-Appellee Nationstar Mortgage LLC (Nationstar) lacked standing to foreclosure on the subject mortgage and, therefore, that the Circuit Court erred in entering the Summary Judgment Order.

Through (1) certified copies of the mortgage and relevant assignments, as well as the other exhibits submitted in support of summary judgment and (2) the Verification of Complaint for Foreclosure by Vi Tran, Assistant Secretary for Nationstar, which submitted and attested to the subject note, mortgage, assignment of mortgage, record of default, and notice of default, which was executed by Vi Tran under the penalty of perjury, and which was specifically referenced and relied on in support of summary judgment, Nationstar established, *inter alia*: (1) the existence and execution by Ruth C. Alejandro, Joy D. Pasalo, Rommel Antonio P. Agtagma, Lorna D. Agtagma of the subject note and mortgage;² (2) the terms of the note and mortgage; (3) default on the payments due under the terms of the note and mortgage; and (4) notice of default. See Bank of Honolulu, N.A. v. Anderson, 3 Haw. App. 545, 551, 654 P.2d 1370, 1375 (1982). In addition, the sworn Verification of Complaint for Foreclosure

¹ The Honorable Joseph E. Cardoza presided.

² After the execution of the note and mortgage, the subject property was deeded to all Appellants, subject to Nationstar's mortgage.

established that Nationstar had possession of the original promissory note, endorsed in blank, at the commencement of the foreclosure proceedings in this case. See Bank of America, N.A. v. Reyes-Toledo, __ Hawai'i __, __ P.3d __, No. SCWC-15-0000005, slip op. (Feb. 28, 2017). Therefore, there is no genuine issue of material fact that Nationstar established its entitlement and standing to foreclose in this case.

Appellants' other assertions, related to loan securitization and assignment, are also without merit. See, e.g., U.S. Bank Nat'l Ass'n. v. Salvacion, 134 Hawai'i 170, 175-76, 338 P.3d 1185, 1190-91 (App. 2014); Wells Fargo Bank, N.A. v. Pasion, No. CAAP-12-0000657, 2015 WL 4067259, at *3 (Haw. App. June 30, 2015) (SDO), cert. denied, 2015 WL 5965835 (Haw. Oct. 13, 2015). U.S. Bank Nat. Ass'n v. Benoist 2015 WL 7260350 (SDO Nov. 12, 2015).


Accordingly, the Circuit Court's January 28, 2015 Judgment is affirmed.

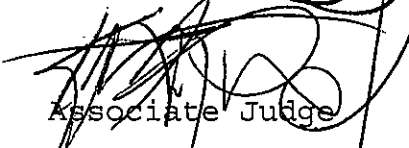
DATED: Honolulu, Hawai'i, March 23, 2017.

On the briefs:

Melodie Aduja,
(Aduja & Aduja),
for Defendants/Plaintiff
Counterclaimants/Appellants.

Charles R. Prather,
for Plaintiff-Appellee.


Presiding Judge


Associate Judge


Associate Judge