

NO. CAAP-17-0000009

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

MTGLQ INVESTORS, LP,, Plaintiff-Appellee, v. MARY
ANN T. BRENNAN, Defendant-Appellant, and
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS,
INC., SOLELY AS NOMINEE FOR QUICKEN LOANS,
INC.; JOHN DOES 1-50; JANE DOES 1-50; DOE
PARTNERSHIPS 1-50; DOE CORPORATIONS 1-50; DOE
ENTITIES 1-50; and DOE GOVERNMENTAL UNITS 1-
50, Defendants-Appellees.

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 13-1-002K)

SUMMARY DISPOSITION ORDER

(By: Fujise, Presiding Judge, Reifurth and Chan, JJ.)

In an appeal arising out of a foreclosure case, Defendant-Appellant Mary Ann T. Brennan (Brennan) appeals from the December 8, 2016 Judgment entered by the Circuit Court of the Third Circuit (Circuit Court)¹ on an order granting summary judgment and a decree of foreclosure in favor of Plaintiff-Appellee MTGLQ Investors, LP (MTGLQ), and against Brennan and Defendant-Appellee Mortgage Electronic Registration Systems, Inc., Solely as Nominee for Quicken Loans, Inc.

On appeal, Brennan challenges the Circuit Court's decision to grant summary judgment in MTGLQ's favor, arguing that there were genuine issues of material fact, including whether the original plaintiff in this action, Bank of America, N.A. (BOA),

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The Honorable Melvin H. Fujino presided.

had presented evidence that it was "the holder of the endorsed note at the time the complaint was filed[.]"

In its answering brief, MTGLQ concedes that "there is no evidence on record of the original plaintiff [BOA's] standing as the holder of the original promissory note when the Complaint for Foreclosure was filed on January 3, 2013" as required by the Hawai'i Supreme Court's opinion in Bank of America, N.A. v. Reyes-Toledo, 139 Hawai'i 361, 361-71, 390 P.3d 1248, 1248-1258 (2017) and asks this court to set aside the order granting summary judgment, decree of foreclosure and the December 8, 2016 Judgment.

Based on the foregoing, we vacate (1) the "Findings of Fact, Conclusions of Law and Order Granting Plaintiff's Motion for Summary Judgment for Foreclosure Against Defendant Mary Ann T. Brennan and Default Judgment against Defendant Mortgage Electronic Registration Systems, Inc., Solley [sic] as Nominee for Quicken Loans, Inc., and for Interlocutory Decree of Foreclosure[,] " and (2) the Judgment, both entered on December 8, 2016, and remand this case to the Circuit Court of the Third Circuit for further proceedings.

DATED: Honolulu, Hawai'i, May 31, 2018.

On the briefs:

Gary V. Dubin
Frederick J. Arensmeyer,
for Defendant-Appellant.

Presiding Judge

David B. Rosen
and
David E McAllister
Justin S. Moyer
Christina C. Macleod
(Aldridge Pite)
for Plaintiff-Appellee.

Associate Judge

Associate Judge