

MTGLQ Inv'rs, LP v. Brennan

Intermediate Court of Appeals of Hawai'i
May 31, 2018, Decided; May 31, 2018, Filed
NO. CAAP-17-0000009

Reporter

2018 Haw. App. LEXIS 226 *; 2018 WL 2439384

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.

Notice: SUMMARY DISPOSITIONAL ORDERS OF THIS COURT DO NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED. SEE HAWAII RULES OF APPELLATE PROCEDURE FOR GUIDELINES RESTRICTING PUBLICATION AND CITATION OF SUMMARY DISPOSITIONAL ORDERS.

Prior History: [*1] APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT. CIVIL NO. 13-1-002K.

Core Terms

Foreclosure, granting summary judgment, foreclosure decree, original plaintiff, holder

Counsel: On the briefs: Gary V. Dubin, Frederick J. Arensmeyer, for Defendant-Appellant.

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

Judges: By: Fujise, Presiding Judge, Reifurth and Chan, JJ.

Opinion

SUMMARY DISPOSITION ORDER

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

¹ The Honorable Melvin H. Fujino presided.

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), 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 [*2] 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 Hawaii Supreme Court's opinion in [*Bank of America, N.A. v. Reyes-Toledo*, 139 Hawaii 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.

/s/ Alexa D.M. Fujise

Presiding Judge

/s/ Lawrence M. Reifurth

Associate Judge

/s/ Derrick H.M. Chan

Associate Judge

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