

Johnson v. Nationstar Mortgage, LLC, et al. -- lender-friendly new case re enforcement of assigned note

Article By:

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Trial court finds no ambiguity of the actual party to the party of the note and is affirmed. Original holder of the note and deed of trust found to have had legal authority to pass lawful title/possession to subsequent holders, including Respondents.

Court Summary:

Jillian Johnson appeals the trial court's grant of summary judgment in favor of Nationstar Mortgage, LLC and U.S. Bank, National Association, as Trustee for the holders of the CSFB Mortgage Securities Corp., Adjustable Rate Mortgage Trust 2005-8, Adjustable Rate Mortgage-Backed Pass-Through Certificates, Series 2005-8 (collectively, "Respondents").

Johnson argues that the trial court erred in finding there to be no ambiguity regarding the identity of the actual party to the Note and Deed of Trust securing her home loan. Thus, she contends that the trial court erred in granting Respondents' motion for summary judgment because there remained a genuine dispute of fact as to the identity of the actual Note- and Deed-holder.

AFFIRMED

Division Three holds:

(1) The circuit court did not err in finding there to be no ambiguity regarding the identity of the actual party to the Note and Deed securing Johnson's home loan. The identity of the original holder of the Note and Deed was not ambiguous because the plain language of the instruments, when construed together, clearly identified "Countrywide Home Loans, Inc. d/b/a America's Wholesale Lender" as the valid and authorized original holder of the instruments.

(2) The circuit court did not err in granting Respondents' motion for summary judgment because Respondents took lawful possession of Johnson's Note and Deed through a chain of holders originating with the initial holder of these instruments, Countrywide Home Loans, Inc. d/b/a America's Wholesale Lender. As the lawful holders of the Note and Deed, Respondents were entitled to foreclose upon Johnson's home when she defaulted upon her mortgage loan.

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