

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

APPELLATE DIVISION (CIVIL): AY
CASE NO: 2016AP900190CAXXMB
L.T. NO: 2015CC000945XXXXMB

JCRD PROPERTIES, LLC,
Appellant,

v.
FORD MOTOR CREDIT COMPANY, LLC,
Appellee.

BY ORDER OF THE COURT:

THIS CAUSE came before the Court on Appellant's Motion for Rehearing and Response to Order to Show Cause, both filed on April 28, 2017.

Florida Rule of Appellate Procedure 9.410(a) allows a court, sua sponte, to impose sanctions filing a bad faith or frivolous appeal in the form of "reprimand, contempt, striking of briefs or pleadings, dismissal of proceedings, costs, attorney's fees, or other sanctions." Fla. R. App. P. 9.410(a). An appeal is considered frivolous "if it is completely without merit in law and cannot be supported by a reasonable argument for an extension, modification, or reversal of existing law." *In re A.T.H.*, 180 So. 3d 1212, 1215 (Fla. 1st DCA 2015).

Appellant, plaintiff in the trial court below, claimed that it had standing to file a re-foreclosure complaint because it was the original purchaser of the property at the foreclosure sale. Appellee, defendant in the trial court below, filed a Motion for Summary Judgment in which it argued that Appellant lacked standing. Appellant filed a Response in Opposition to

Motion for Summary Judgment, arguing that re-foreclosure allowed the purchaser to step into the shoes of the original lender, thus giving the purchaser standing.

In order to foreclose on a mortgage, “a lender must prove it had standing before the complaint is filed.” *Peoples v. SAMI II Trust 2006-AR6*, 178 So. 3d 67, 68 (Fla. 4th DCA 2015). A plaintiff must prove it was the holder of the note and mortgage both at the time of trial and at the time the foreclosure complaint was filed. *Id.* at 69. It is well-established that the same foreclosure standing requirements apply in re-foreclosure cases. *See Marina Funding Group, Inc. v. Peninsula Property Holdings, Inc.*, 950 So. 2d 428, 430 (Fla. 4th DCA 2007).

Appellant admitted that it sold the property at issue via warranty deed on November 6, 2014. The complaint for re-foreclosure was not filed until January 22, 2015. In entering Final Judgment in favor of Appellee Ford, the trial court explicitly found that “plaintiff was not the holder of the note and mortgage for the subject property at the time this action was filed and therefore lacks standing.” On appeal and in its Motion for Rehearing, Appellant claims that the court has “eliminated the right to re-foreclosure” and has erroneously imposed the requirements of a foreclosure case on a re-foreclosure case. This Court finds that Appellant’s standing argument is completely without merit in law. Appellant does not raise any reasonable argument for an extension, modification, or reversal of existing law; rather, Appellant’s argument ignores existing law. We therefore impose sanctions pursuant to Rule 9.410, awarding appellate attorney’s fees to Appellee. Accordingly, it is hereby

ORDERED that Appellant's Motion for Rehearing is **DENIED**. It is further

ORDERED that pursuant to Rule 9.410, Appellee is entitled to all reasonable appellate attorney's fees, and the matter is remanded to the trial court to award a reasonable amount thereof.

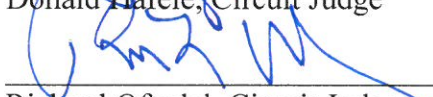
DONE and ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida,
this 2 day of Aug 2017.



Meenu Sasser, Circuit Judge



Donald Hafele, Circuit Judge



Richard Oftedal, Circuit Judge

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Copies provided to:

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