

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

RONALD PHILIPS,

Appellant,

v.

Case No. 5D15-338

NATIONSTAR MORTGAGE, LLC,

Appellee.

_____ /

Opinion filed March 24, 2016

Appeal from the Circuit Court
for Marion County,
Robert W. Hodges, Judge.

Ronald Philips, Masaryktown, pro se.

David W. Rodstein, of Padula Hodkin,
PLLC, Boca Raton, for Appellee.

PER CURIAM

Ronald Philips ("Appellant") appeals the trial court's entry of final judgment of foreclosure in favor of Nationstar Mortgage, LLC ("Nationstar"). Appellant raises several issues on appeal. We affirm as to all, except for the final judgment's inclusion of awards regarding specific expenses for which there was no proof. Appellant asserts that there was no evidence presented by Nationstar during the non-jury trial to justify the inclusion of the amounts listed in the final judgment for hazard insurance, property

inspections, attorney's fees, filing fees, service fees, title search costs, and statutory mailing fees. Commendably, Nationstar concedes this point. We agree that it was error to include those amounts in the final judgment. "[A]ppellate courts do not generally provide parties with an opportunity to retry their case upon a failure of proof." *Wolkoff v. Am. Home Mortg. Servicing, Inc.*, 153 So. 3d 280, 283 (Fla. 2d DCA 2014) (alteration in original) (quoting *Correa v. U.S. Bank Nat'l Ass'n*, 118 So. 2d 952, 956 (Fla. 2d DCA 2013)). Therefore, we affirm in part, reverse in part, and remand with instructions for the trial court to enter an amended final judgment in favor of Nationstar, which shall exclude any amounts for hazard insurance, property inspections, attorney's fees, filing fees, service fees, title search costs, and statutory mailing fees, but will otherwise be in accordance with the original final judgment.

AFFIRMED IN PART, REVERSED IN PART, REMANDED WITH
INSTRUCTIONS

PALMER, TORPY, AND EDWARDS, JJ., concur.