

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

MARIO MARSDEN and ROSAL MARSDEN,
Appellants,

v.

**BAC HOME LOANS SERVICING, L.P. f/k/a COUNTRYWIDE HOME
LOANS SERVICING, L.P.; NEWPORT ISLES PROPERTY OWNERS
ASSOCIATION, INC.; PORTOFINO ISLES HOMEOWNERS
ASSOCIATION INC.;** and Unknown Tenant(s) In Possession Of The
Subject Property,
Appellees.

No. 4D14-1623

[July 13, 2016]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St.
Lucie County; James W. Midelis, Judge; L.T. Case No. 562009CA005997.

Thomas Erskine Ice of Ice Appellate, Royal Palm Beach, for
appellants.

Adam M. Topel of Liebler Gonzalez & Portuondo, for appellee Bank of
America, N.A., successor by merger to BAC Home Loans Servicing, L.P.,
f/k/a Countrywide Home Loans Servicing, L.P.

CIKLIN, C.J.

Mario and Rosal Marsden (the “borrowers”) challenge a final judgment
of foreclosure entered in favor of BAC Home Loans Servicing, L.P. f/k/a
Countrywide Home Loans Servicing, L.P. (the “bank”). They raise
multiple issues on appeal. We find only one has merit, and reverse and
remand for the trial court to enter an amended final judgment and
therein to eliminate its award of interest, in that the record is devoid of
any such proof.

The borrowers argue that the bank did not prove the amount of
damages reflected in the final judgment. We agree, but only as to the
award of interest. At trial, the bank relied on a payment history to prove
its damages. The payment history, however, does not provide an
evidentiary basis for the inclusion of any interest. Further, the face of

the note does not make apparent how much interest, if any, is owed. The bank's witness testified that the amounts in a proposed final judgment were consistent with the payment history, but the witness did not offer any testimony as to the amount of interest owed, and the proposed final judgment was not entered into evidence.¹ Because the bank did not present any evidence of the amount of interest owed, we reverse and remand for the trial court to amend the final judgment and remove any calculations for interest.

Reversed and remanded with instructions.

WARNER and GERBER, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

¹ If the bank had offered some, but insufficient, evidence of the amount of interest owed, we would remand for the trial court to take additional evidence. See *McMillan v. Bank of New York Mellon*, 180 So. 3d 1090, 1091-92 (Fla. 4th DCA 2015).