

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

NATIONSTAR MORTGAGE, LLC,
Appellant,

v.

**JOSELITO L. MARTINS a/k/a JOSELITO MARTINS; MARTIN'S
CROSSING HOMEOWNERS ASSOCIATION, INC.; and MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR
CTX MORTGAGE COMPANY, LLC,**
Appellees.

No. 4D17-1140

[March 7, 2018]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit,
Martin County; George A. Shahood, Senior Judge; L.T. Case No.
2014CA000635.

Morgan W. Bates and Allison Morat of Pearson Bitman LLP, Maitland,
for appellant.

Jeffrey M. Clyman of Steele Law, Hobe Sound, for appellee Joselito L.
Martins a/k/a Joselito Martins.

DAMOORGIAN, J.

After establishing that Nationstar Mortgage, LLC (“Nationstar”) was not the holder of the note secured by his property at the time it filed a mortgage foreclosure suit and, therefore, lacked standing to maintain its suit, Joselito Martins sought and was awarded fees pursuant to the attorneys’ fees clause in the mortgage and the reciprocal provision of section 57.105(7), Florida Statutes (2017). Because “[a] party that prevails on its argument that dismissal is required because the plaintiff lacked standing to sue upon the contract cannot recover fees based upon a provision in that same contract,” we reverse and direct the trial court to vacate the final judgment awarding fees to Mr. Martins. *Nationstar Mortg. LLC v. Glass*, 219 So. 3d 896, 899 (Fla. 4th DCA 2017); *see also Christiana Tr., a Div. of Wilmington Sav. Fund Soc’y, FSB for Normandy Mortg. Loan Tr., Series 2013-18 v. Rushlow*, 231 So. 3d 558, 559 (Fla. 4th DCA 2017).

Reversed and remanded.

TAYLOR and MAY, JJ., concur.

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Not final until disposition of timely filed motion for rehearing.