

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

U.S. BANK NATIONAL ASSOCIATION,
As Trustee for Lehman Mortgage Trust
Pass-Through Certificates Series 2007-8,
Appellant,

v.

GEORGE E. BUCHANAN a/k/a **G. EUGENE BUCHANAN** and
JO ANNE BUCHANAN,
Appellees.

No. 4D19-1416

[May 20, 2020]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit,
Martin County; William L. Roby, Judge; L.T. Case No. 2016CA001099.

Sara F. Holladay-Tobias, Emily Rottmann, and C. H. Houston, III of
McGuireWoods LLP, Jacksonville, for appellant.

W. Trent Steele of Steele Law, Hobe Sound, for appellees.

GERBER, J.

The bank appeals from the circuit court's final judgment of dismissal against the bank and in the borrowers' favor after a non-jury trial. The bank argues the trial court erred in three respects: (1) finding the bank did not prove it owned and was entitled to enforce the note when the note was lost; (2) finding the bank did not prove it satisfied the condition precedent of having mailed a default letter to the borrowers at their changed address; and (3) denying the bank's two declaratory judgment counts to declare certain quit claim deeds legally sufficient.

We conclude the circuit court erred on the second argument. However, that error is harmless, because we conclude on the first argument that the bank did not present sufficient competent substantial evidence to prove it owned and was entitled to enforce the note when the note was lost. Thus, we affirm the final judgment as to the bank's mortgage foreclosure and re-establishment of lost note counts (Counts I and II) without further comment.

We also affirm the final judgment as to the bank's declaratory judgment counts (both inadvertently labeled Count III) without further comment.

Affirmed.

GROSS and MAY, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.