

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2012

STAR FUNDING SOLUTIONS, LLC,
Appellant,

v.

JOHN J. KRONDES, et. al.,
Appellee.

No. 4D11-3378

[November 21, 2012]

DAMOORGIAN, J.

Star Funding Solutions, LLC, appeals the trial court's order denying its motion to vacate the order dismissing with prejudice its foreclosure action against John and Florence Krondes, and others. We affirm and write only to address the impact of the dismissal with prejudice on any subsequent act of default of the terms of the mortgage between Star Funding and the Krondes. A new default, based on a different act or date of default not alleged in the dismissed action, creates a new cause of action. *Singleton v. Greymar Assocs.*, 882 So. 2d 1004, 1005 (Fla. 2004). Thus, the trial court's dismissal with prejudice of Star Funding's first foreclosure action does not preclude Star Funding from instituting a new foreclosure action. *Id.* at 1006. ("[R]es judicata does not prevent mortgagees from foreclosing on a mortgage in successive foreclosure cases when the alleged dates of default are different.").

Affirmed.

WARNER and TAYLOR, JJ., concur.

* * *

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, Martin County; Sherwood Bauer, Jr., Judge; L.T. Case No. 10-1298-CA.

Jerrold J. Golson of Florida Foreclosure Attorneys, PLLC, Clearwater, for appellant.

John J. Krondes and Florence T. Krondes, Darien, CT, pro se.

Not final until disposition of timely filed motion for rehearing.