

Third District Court of Appeal

State of Florida

Opinion filed July 3, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D18-493
Lower Tribunal No. 14-7149

Julia Davis,
Appellant,

vs.

OneWest Bank, FSB,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Thomas J. Rebull,
Judge.

Legal Services of Greater Miami, Inc. and Jacqueline C. Ledón and Jeffrey
M. Hearne, for appellant.

Burr & Forman and Joshua H. Threadcraft (Birmingham, AL), for appellee.

Before SALTER, SCALES and MILLER, JJ.

PER CURIAM.

Julia Davis, the widow of the titleholder (Herbert Davis), signed a reverse mortgage as co-borrower. She did not sign the promissory note for the loan. OneWest Bank sought to foreclose after Mr. Davis's death, which would have dispossessed Mrs. Davis from her homestead.

Based on our decisions involving similar documents and issues, we reverse the final judgment of foreclosure and remand the case to the trial court for the entry of an involuntary dismissal of the case in favor of Mrs. Davis. OneWest Bank, FSB v. Palmero, 44 Fla. L. Weekly D1049 (Fla. 3d DCA April 24, 2019) (en banc); OneWest Bank, N.A. v. Leek-Tannenbaum, 44 Fla. L. Weekly D1282 (Fla. 3d DCA May 15, 2019); Smith v. Reverse Mortg. Sols., Inc., 200 So. 3d 221, 225 (Fla. 3d DCA 2016); and Edwards v. Reverse Mortg. Sols., Inc., 187 So. 3d 895, 896 (Fla. 3d DCA 2016).¹

Reversed and remanded, with instructions.

SCALES, J., concurs.

¹ The Palmero and Leek-Tannenbaum opinions are pending on post-opinion motions; the Smith and Edwards cases are not.

MILLER, J., specially concurring.

Although I am constrained by the authority of precedent, neither distinguishable upon legal principle nor material fact, to concur, the concerns expressed in my dissenting opinion in OneWest Bank, FSB v. Palmero, 44 Fla. L. Weekly D1049, D1055 (Fla. 3d DCA April 24, 2019) (Miller, J., dissenting) (discussing the majority's abandonment of long-standing, controlling principles of law) remain.