

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR THE GSAMP TRUST 2006-NC1
MORTGAGE PASS-THROUGH CERTIFICATES,
SERIES 2006-NC1,

Plaintiff,

Case No. 2012-008001

v.

Division: D

JOSE BUSQUETS AND UNKNOWN SPOUSE
OF JOSE BUSQUETS, et al.,

Defendants,

ORDER GRANTING SUMMARY JUDGMENT

THIS CAUSE, having come before the Court on December 5, 2012 on Defendants' Motion for Summary Judgment, and the Court, having heard the arguments of counsel and being duly advised in the premises, it is hereby;

ORDERED AND ADJUDGED as follows:

1. In their motion, Defendants contend they are entitled to summary judgment because Plaintiff failed to comply with the conditions precedent required by paragraph 22 of the subject mortgage. In response, Plaintiff filed an opposing affidavit which attached a letter. That letter provided, in pertinent part, that "foreclosure proceedings" may result if Defendants did not cure the alleged default, and, in pertinent part:

After acceleration of the debt, but prior to foreclosure, you may have the right to reinstate the mortgage loan, depending on the terms of the note and mortgage. We encourage you to review the provisions of the note and mortgage.

2. While Plaintiff argues that these portions of the letter are sufficient to comply with paragraph 22 of the mortgage, this Court disagrees. Paragraph 22 of the Mortgage required

Plaintiff to inform Defendants of their “right to reinstate after acceleration.” The letter upon which Plaintiff relies does not so specify, as it merely informs Defendants they “may” have the right to reinstate. This is insufficient to comply with paragraph 22.

3. Likewise, the letter does not inform Defendants that there may be a “foreclosure by judicial proceeding” if they fail to cure the default, instead apprising them only that there may be “foreclosure proceedings.” By failing to apprise Defendants that there may be a judicial proceeding, i.e. a court action, Plaintiff failed to comply with paragraph 22.

4. The motion is granted and this case is dismissed without prejudice.

DONE AND ORDERED in Chambers in Tampa, Hillsborough County, Florida on this ____ day of December, 2012.

cc: Mark P. Stopa, Esq.
Grant Gisondo, Esq.

Circuit Court Judge

ORIGINAL SIGNED

DEC 14 2012

RAUL C. PALOMINO, JR.
SENIOR JUDGE