

FEDERAL HOME LOAN MORTGAGE CORPORATION

v.

RICKY W. MICHAUD et al.

Submitted on Briefs April 27, 2017  
Decided May 4, 2017

Panel: ALEXANDER, MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Federal Home Loan Mortgage Corporation (FHLMC) appeals from a judgment entered by the District Court (Waterville, *Stanfill, J.*) in favor of Ricky W. Michaud and Kerri A. Michaud on FHLMC's complaint for foreclosure concerning the Michauds' real property in Waterville. Contrary to FHLMC's contention, the court did not clearly err in finding that FHLMC failed to prove that either it or U.S. Bank National Association, which FHLMC sought to substitute as plaintiff, owned the mortgage encumbering the Michaud property. *See Deutsche Bank Nat'l Tr. Co. v. Wilk*, 2013 ME 79, ¶ 11, 76 A.3d 363. As the court found, a purported assignment of a mortgage is ineffective when it is signed before ownership of the mortgage is acquired by the assignor, regardless of when the assignment is recorded in the registry of deeds. *See id.* ¶ 12; *Spickler v. Ginn*, 2012 ME 46, ¶ 8, 40 A.3d 999 (stating that Maine's recording statute, 33 M.R.S. § 201 (2016), "provide[s] a mechanism for public documentation evincing the transfer of real property.").

However, a foreclosure plaintiff that fails to prove ownership of the mortgage lacks standing, requiring the trial court to dismiss the complaint without prejudice. *See Nationstar Mortg., LLC v. Halfacre*, 2016 ME 97, ¶¶ 2, 6,

143 A.3d 136; *Bank of N.Y. v. Dyer*, 2016 ME 10, ¶ 11, 130 A.3d 966; *Homeward Residential, Inc. v. Gregor*, 2015 ME 108, ¶¶ 24, 26, 122 A.3d 947; *Bank of Am., N.A. v. Greenleaf*, 2014 ME 89, ¶¶ 9, 12, 17, 96 A.3d 700. For that reason, we vacate the court's judgment in favor of the Michauds and remand for entry of that result.

The entry is:

Judgment vacated. Remanded with instructions  
to dismiss the complaint without prejudice.

---

Carrie Folsom, Esq., Shechtman Halperin Savage, LLP, Pawtucket, Rhode Island,  
for appellant Federal Home Loan Mortgage Corporation

Ricky W. Michaud and Kerri A. Michaud did not file a brief

Waterville District Court docket number RE-2015-46  
FOR CLERK REFERENCE ONLY