

UNOFFICIAL COPY



Doc# 1633422124 Fee \$50.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 11/29/2016 12:44 PM PG: 1 OF 7

RETURN TO:
Lawrence M. Karlin
Karlin Associates, LLC
651 W. Washington, # 205
Chicago, Illinois 60661

For Use by Recorder of Deeds

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION

BANK OF AMERICA, N.A. a national
banking association,

Plaintiff,

v.

MORTGAGE REGISTRATION SYSTEMS, INC. a
Delaware corporation, MINNESOTA
LENDING COMPANY, LLC a Minnesota
limited liability company d/b/a Florida
Lending Company, PROSPECT
MORTGAGE, LLC a Delaware limited
liability company, PNC BANK, N.A. a
national banking association, and MICHAEL
SMITH

Defendants.

Case No.: 2016 CH 10714

Judge Celia G. Gamrath
Room 2508
Calendar 06

KA # 527,092
PD #888037

Property at:
737 W. Washington Blvd Unit 3404
Chicago, IL 60661

FINAL DECLARATORY JUDGMENT ORDER

This cause comes before the court on the complaint of BANK OF AMERICA, N.A. ("Plaintiff" or "Bank of America") for a declaration removing a potential cloud on title to condominium property and authorizing Plaintiff to execute and record a release of a certain mortgage on said property. The court having jurisdiction over the parties, and having considered the allegations and exhibits to the complaint, finds as follows:

ACRD REVIEW 

UNOFFICIAL COPY

A. This is an action for a declaratory judgment relating to a mortgage on condominium property commonly known as 737 West Washington Boulevard, Unit 3404, Chicago, Illinois 60661 ("*Property*"), which is legally described as follows:

UNIT 3404 AND PARKING SPACE P-2036 IN THE SKYBRIDGE CONDOMINIUM AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE:

LOTS 1, 1*, 1A, 1A*, 1B, 1C, 1D, 1E*, 1F, 1G, 1H, 1I, 1J, 1K, 1L, 1M*, 1N, 1P*, 1Q*, 1R*, 1S*, 1T*, 1U*, 1V*, 1W*, 1X*, AND 1Y* IN SKYBRIDGE SUBDIVISION, BEING A SUBDIVISION IN THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS, RECORDED AS DOCUMENT NUMBER 0030484830.

WHICH SURVEY IS ATTACHED AS EXHIBIT "B" TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT NUMBER 0315545026, AND AS AMENDED, TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS, ALL IN COOK COUNTY, ILLINOIS.

PIN: 17-09-337-092-1210 and 17-09-337-092-1257

B. Bank of America is a national bank with its principal offices in Charlotte, N.C. As more fully set forth below, Bank of America was the last servicer of a mortgage on the Property that has been paid but not released of record because Bank of America is outside the chain of title.

C. Trudy M. Companik and Nicole F. Companik ("*Prior Owners*") acquired fee simple title to the Property by deed dated March 30, 2007 and recorded in Cook County on April 12, 2007 as document 0710205213.

D. Prior Owners conveyed fee simple title to MICHAEL SMITH ("*Current Owner*") by deed dated August 18, 2010 and recorded in Cook County on September 8, 2010 as document 1025134011.

UNOFFICIAL COPY

E. MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. (“MERS”) was served with a summons and complaint on August 22, 2016. MERS did not appear or plead within thirty days of service and is now in default.

F. MINNESOTA LENDING COMPANY, LLC a Minnesota limited liability company (“*Original Mortgagee*”) was named as a defendant in this action. Subsequent to filing suit, counsel for Plaintiff learned that according to information provided by the Minnesota Secretary of State, Original Mortgagee is an inactive entity that filed its notice of dissolution with the Minnesota Secretary of State on August 9, 2010. Therefore, concurrent with the entry of this order, the Court has entered a separate order voluntarily dismissing Original Mortgagee as unable to be served.

G. PROSPECT MORTGAGE, LLC (“*Prospect*”) was served with a summons and complaint on August 18, 2016. Prospect did not appear or plead within thirty days of service and is now in default.

H. PNC BANK, N.A. (“*PNC*”) was served with a summons and complaint on August 22, 2016, 2016. PNC did not appear or plead within thirty days of service and is now in default.

I. The Cook County Sheriff attempted service on Current Owner on September 6, 2016. The Sheriff returned the summons not served, noting that no contact was made. On Plaintiff’s motion, this Court entered an order appointing a special process server on September 21, 2016. Current Owner was served by alias summons and complaint on October 13, 2016. Current Owner subsequently stipulated to the entry of this order.

J. Bank of America was the last servicer of a mortgage on the Property dated April 2, 2007 (“*2007 Mortgage*”) executed by Prior Owners, as mortgagor, in favor of Original

UNOFFICIAL COPY

Mortgagee. The 2007 Mortgage was recorded in Cook County on April 12, 2007 as document 0710205214, and it secured a promissory note dated April 2, 2007 in the principal amount of \$480,000.00.

K. MERS was joined as a nominal defendant because of its interest in the Property. MERS is the mortgagee under a mortgage that Current Owner granted, as mortgagor, on July 27, 2012 in the principal amount of \$292,500.00 ("*2012 Mortgage*"). The 2012 Mortgage was recorded in Cook County on August 27, 2012 as document 1224056096.

L. Prospect is the servicer of the 2012 Mortgage. (MERS MIN:1000342-0081227675-0)

M. PNC was joined in this action as a nominal defendant because of its interest in the Property. PNC is the mortgagee under a mortgage granted by Current Owner, as mortgagor, on May 1, 2014 and securing a revolving line of credit with a maximum principal amount of \$125,000.00 ("*2014 Mortgage*"). The 2014 Mortgage was recorded in Cook County on May 15, 2014 as document 1413522000.

N. As set forth above, Original Mortgagee originated the 2007 Mortgage on April 2, 2007. Original Mortgagee subsequently assigned the 2007 Mortgage to MERS. However, no assignment to MERS was recorded, thereby leaving Original Mortgagee's interest as a potential cloud on title.

O. On December 1, 2009, MERS retroactively assigned the 2007 Mortgage to Countrywide Home Loans, Inc. ("*Countrywide Home*"). According to the retroactive assignment, MERS assigned the 2007 Mortgage "prior to 2/23/09." The assignment to Countrywide Home was recorded in Cook County on January 5, 2010 as document 1000526140.

UNOFFICIAL COPY

P. On February 26, 2009, Countrywide Home sued to foreclose on the 2007 Mortgage (case number 2009 CH 08784).

Q. On April 27, 2009, Bank of America acquired Countrywide Bank, FSB and its affiliated entities, including Countrywide Home.

R. On August 18, 2010, Prior Owners sold the Property to Current Owner as part of a short sale. As described above, the deed to Current Owner was recorded in Cook County on September 8, 2010 as document 1025134011.

S. On October 27, 2010, the foreclosure proceeding was voluntarily dismissed.

T. Bank of America, as successor to Countrywide Home, received the discounted payoff as full satisfaction of all sums due under the 2007 Mortgage. Bank of America has acknowledged in writing that it received full payment of the 2007 Mortgage on December 10, 2010.

U. Because no assignment to MERS was recorded, Original Mortgagee's interest remains a potential cloud title. In addition, the unrecorded assignment to MERS has left Bank of America outside the chain of title and unable to record a release of the 2007 Mortgage even though it has been paid.

V. This order does not declare, challenge, or alter in any way the interests that MERS, Prospect, PNC, and Current Owner possess in the Property. Nor does this order declare, challenge, or alter in any way the rights of the parties under the 2012 Mortgage or the 2014 Mortgage.

IT IS ORDERED, ADJUDGED AND DECREED:

1. Original Mortgagee assigned the 2007 Mortgage to MERS and therefore does not possess an interest under said mortgage.

UNOFFICIAL COPY

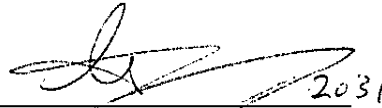
2. The 2007 Mortgage executed by Prior Owners in favor of Original Mortgagee dated April 2, 2007 and recorded in Cook County on April 12, 2007 as document 0710205214 has been paid in full. The lien of said mortgage on and over the Property described in Paragraph A above should be released and forever discharged.

3. Bank of America is directed to execute and record its release of said mortgage.

4. MERS, Prospect, and PNC are hereby found to be in default for failure to appear or plead within thirty days of service.

5. This is a final order effective this 29th day of November, 2016.

ENTERED:



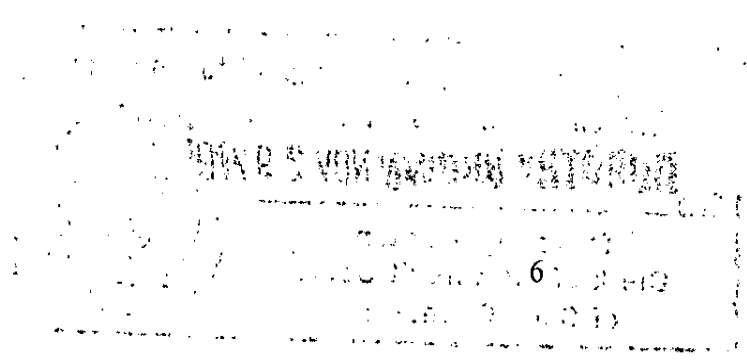
Judge

Judge Celia G. Gamrath

NOV 29 2016

Circuit Court - 2031

Lawrence M. Karlin
Howard Pashman
KARLIN ASSOCIATES, LLC (Firm #58770)
651 W. Washington, Ste. 205
Chicago, IL 60661
312-845-2515
lkarlin@ke-llp.com



UNOFFICIAL COPY

Property of Cook County Clerk's Office

I hereby certify that the document to which this certification is affixed is a true copy.

Date **DOROTHY BROWN NOV 29 2018**

Dorothy Brown
Clerk of the Circuit Court
of Cook County, IL

