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IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.: CACE11032597 (12)

THE FIDELITY LAND TRUST COMPANY,
LLC as Trustee for Florida Land Trust
No. 40113 dated December 20, 2011,

Plaintiff,

vs.

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.,

Defendant.

CIRCUIT CIVIL
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FILED IN RECORDS
CLERK OF CIRCUIT COURT
BROWARD COUNTY, FLORIDA

~~THIS IS NOT AN~~
FINAL JUDGMENT

The Court, having reviewed the record and finding that Defendant MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS") was properly served, that default was entered against Defendant MERS on June 12, 2012, and the Court otherwise being duly advised in the premises,

THE COURT FURTHER FINDS, ADJUDGES, AND DECLARES THAT:

1. This Court has jurisdiction pursuant to Florida Statutes Sections 65.021 and 86.011.
2. Plaintiff is a subsequent purchaser for valuable consideration and the record owner of the real property located in BROWARD County, Florida more fully described as: **SAWGRASS EXCHANGE PLAT 165-2 B COMM AT SW COR OF PARCEL "H", NLY ALG W/L FOR 989.51, ELY 1279.12 TO POB, NWLY 77.83 TO P/C, ELY ARC DIST OF 22.01, SELY 76.92, WLY 22.00 TO POB AKA: LOT 3 BLDG 11 VICTORIA ISLES, ACCORDING TO THE MAP OR PLAT THEREOF AS**

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RECORDED IN PLAT BOOK 40189, PAGE 1450, PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA (“Subject Property”).

3. On December 29, 2011, Plaintiff recorded a Notice of Lis Pendens in Book 48411 at Page 1583 of the Official Records of Broward County, Florida, which Notice described the pendency of the within action as to title to the Subject Property.

4. HomeBanc Mortgage Corporation (“HomeBanc”) recorded a Mortgage dated July 21, 2005 on August 1, 2005 in Official Records Book 40189 at Page 1450 of the public records of Broward County, Florida (“Subject Mortgage”). On December 14, 2007, HomeBanc assigned the Subject Mortgage and underlying Note to Defendant MERS via an Assignment of Mortgage dated December 14, 2007 and recorded December 18, 2007 in Official Records Book 40189 at Page 1450 of the public records of Broward County, Florida.

5. Defendant MERS conveyed its interest in the Subject Mortgage to a third party or parties, and the true owner or owners of the Subject Mortgage failed to cause an assignment of mortgage to be recorded.

6. The unknown owner of the Subject Mortgage failed to intervene in the instant lawsuit within thirty (30) days of the recording of the Lis Pendens filed herein. Pursuant to Florida Statutes §48.23(1)(d), and the Fifth District Court of Appeal’s holding in *Adhin v. First Horizon Home Loans*, 44 So.2d 1245 (5th DCA 2010), the unknown owner is forever barred from enforcing its interest in the Subject Property, and the Subject property is forever discharged from all unrecorded interests and liens.

7. Pursuant to Florida Statutes §695.01(1), the Subject Mortgage is not good or effectual in law or equity as against Plaintiff or other subsequent purchasers or creditors.

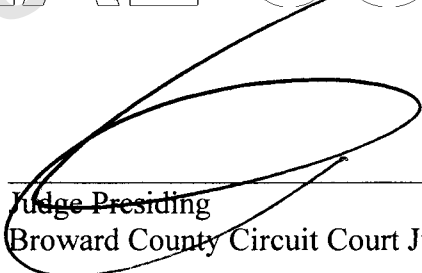
8. Pursuant to Florida Statutes §701.02(1) and (2), the (unrecorded) assignment of the Subject Mortgage is not good or effectual in law or equity against Plaintiff or other subsequent purchasers or creditors.

9. Plaintiff's title to the property is quieted against the claims of Defendant MERS arising from the Subject Mortgage, and against all other persons claiming by, through, under or against Defendant MERS or the Subject Mortgage.

10. A judicial sale of the property is unnecessary as title has previously vested in Plaintiff.

11. The Subject Mortgage, dated July 21, 2005 and recorded on August 1, 2005 in Official Records Book 40189 at Page 1450 of the public records of Broward County, Florida, is hereby extinguished and canceled of record forever.

SO ORDERED at Broward County, Florida on this 26 day of July, 2012.



Judge Presiding
Broward County Circuit Court Judge

Copy furnished by mail to:

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