

**** FILED: BROWARD COUNTY, FL Brenda D. Forman, CLERK 5/14/2021 2:30:08 PM.****

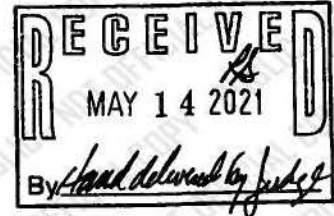
IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

ASHLAND CAPITAL FUND, LLC,
Plaintiff,

Case Number: CACE20013012

v.

WINSTON AND SHEWANA PASSLEY,
Defendants.



FINAL JUDGMENT

THIS CAUSE having come to be heard on May 5, 2021 at trial and after having reviewed the evidence and heard argument of counsel, it is ORDERED AND ADJUDGED:

1. Plaintiff's claim for foreclosure is denied.
2. Plaintiff proved standing.
3. This matter does not involve a standard Fannie Mae/Freddie Mac note and mortgage, and the subject mortgage does not contain a standard paragraph fifteen or twenty-two. The issue of conditions precedent is not applicable.
4. Even though Defendants have not paid since at least November of 2008, the Court does not find that they were in "default."
5. Plaintiff and its predecessors failed to comply with the terms stated in paragraphs five and seven of their own document, the Home Equity Line of Credit Agreement (HELOC). They failed to provide statements informing the Defendants where, when, and how much to pay.
6. Further, there is clear evidence of laches. Until Allied Servicing Corporation (Allied), took over loan servicing in late 2019, there was no effort to try to

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enforce.

7. And Allied's communications, even if sent, did not comply with the terms of the HELOC and Mortgage.

8. The one letter Allied sent to Defendants' attorney that referenced a payment amount, date, and payment address, resulted in the Passleys sending a payment but that payment was rejected.

9. Plaintiff's claim that Allied mailed payment coupons is not accepted.

10. Ultimately, the Court finds laches applies but in equity, it fashions the following remedy:

a. The outstanding balance on the subject loan is \$53,500.00.

b. Defendants are released from interest and payments which may have accrued prior to Judgment being rendered.

c. As required by paragraph seven of the HELOC, Plaintiff (on its own or through its agent/loan servicer) shall send Defendants periodic statements for each billing cycle in which there is a balance owing. Those statements will state, among other things, the amount of the minimum monthly payment, the date by which it is due, and the address where payment must be sent. If the minimum payment includes any other items authorized by the HELOC, Plaintiff or its agent/loan servicer shall also advise Defendants and include an itemization of those amounts on the statement.

d. As provided in the HELOC and Mortgage, Defendants are obligated to timely pay pursuant to those statements.

e. All nonconflicting terms of the loan remain, including the calculation of the

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periodic finance charges and the maturity date (which remains January 15, 2027).

11. Other than as stated herein, Plaintiff shall take nothing by this action and Defendants shall go hence without day.

DONE AND ORDERED, in Broward County Florida, this 14 day of May, 2021.



Barry J. Stone
CIRCUIT JUDGE

cc:
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