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IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

CENTRAL MORTGAGE COMPANY,
PLAINTIFF,

CASE NO: 09-4075 CA 01

vs.

CIVIL DIVISION

EDUARDO GONZALEZ DEL REAL
ET AL,

DEFENDANTS,

2011 FEB - 1 2011 FEB 4 5
CIVIL DIVISION

**ORDER GRANTING DEFENDANTS', EDUARDO GONZALEZ DEL REAL
AND PATRICIA GONZALEZ DEL REAL, MOTION TO VACATE JUDGMENT
AND
ORDER TO SHOW CAUSE WHY BEN-EZRA & KATZ SHOULD NOT BE
HELD IN CONTEMPT OF COURT ON FEBRUARY 11, 2011 AT 9:00 A.M.**

THIS CAUSE having come on to be heard on January 21, 2011 on Defendant's Motion to Vacate Judgment and the Court having heard argument of counsel, and being otherwise advised in the premises, it is hereupon

ORDERED AND ADJUDGED that:

1. Defendant's Motion to Vacate Judgment is **GRANTED**.
2. Counsel for the Plaintiff, Ben-Ezra & Katz were properly noticed to appear for hearing on January 21, 2011 and failed to do so. The Court attempted to contact Ben-Ezra & Katz to address this matter during hearing, but was unable to get anyone on the telephone.
3. In the instant Case, Plaintiff filed an action of foreclosure on Defendant's property located at 1301 SW 260th Terrace, Homestead, FL 33032.
4. In support of its Summary Judgment filed on August 9, 2010, Plaintiff presented to the Court various documents, including but not limited to,
 - a. Notice of Filing Original Note and Original Mortgage dated July 1, 2009.
 - b. Notice of Filing Assignment of Mortgage dated April 2, 2009.

5. Specifically, the "Original Note and Original Mortgage" was filed months after Plaintiff represented to Court in its Complaint that the original Note and Mortgage had been lost. This in it of itself is a Fraud upon the Court. However, this pales in comparison to the subsequent outright fraud presented to the Court in order to pursue a foreclosure action against the Defendant and mislead the Court to obtain the entry of said Judgment.
6. Although this "original" Note and Mortgage is an "original," it has nothing to do with the subject property of this action. This note and mortgage belongs to borrower named Elena Gonzalez, with a property address of 4217 24th Street SW, Lehigh Acres, Florida 33971. However, this document was not only filed but the Notice of Filing was signed by a representative of Ben-Ezra and Katz, Plaintiff's Counsel, wherein it was certified that it was the Original Note and Mortgage of this subject action.
7. Additionally, the Assignment of Mortgage is a complete sham. Upon closer inspection by this Court, pursuant to Defendant's Motion, the Court notes that this Assignment attempts to transfer an interest in a Mortgage from Argent Mortgage Company, LLC to the Plaintiff that "was effective on September 1, 2009."
8. However, said assignment is "signed" by an alleged representative of Argent Mortgage Company on January 6, 2008. The notary on the Assignment is crossed out, and states "see attached." The attached page is a "CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT" allegedly notarized on January 20, 2009; more than a year after the alleged assignment took place.
9. It is obvious that said assignment and acknowledgement were not signed, nor executed and "acknowledged" in the other's presence and are therefore, fraudulent on its face.
10. Therefore, the Court does not find this to be a valid assignment. Court finds that this document is fraudulent, not having been properly executed, or notarized.
11. Thus, the filing of this document is also a Fraud upon the Court, by which the Court relied upon this misrepresentation in pursuing a judgment against the Defendants in this matter.
12. Thus, pursuant to Florida Rule of Civil Procedure 1.540(b), this Court vacates final judgment entered against Defendant on July 7, 2010 for Fraud.
13. Moreover, the Court instructs that no sale is to be scheduled, noticed, or attempted by the Plaintiff in this matter and the Court Strike's Plaintiff's Motion to Reschedule Foreclosure Sale.

14. Furthermore, this Court issues this Order to Show Cause to the Head/ Owners of Ben-Ezra and Katz, P.A. and their associate David G. Cornell, Florida Bar No.: 0487554 to explain to this Court why they should not be held in contempt of Court for:

- a. Failing to appear for hearing scheduled on January 21, 2011; and
- b. Presenting false pleadings, misleading the Court, and wasting the Court's time.

15. As such, it is Ordered that the Owners/Head of Ben-Ezra and Katz personally appear before the Court on February 11, 2011 at 9:00 a.m. along with their associate David G. Cornell, Esquire to address this Order to Show Cause why they should not be held in contempt by this Court.

16. If David G. Cornell, Esquire is no longer an employee of Ben-Ezra & Katz, it will be the responsibility of Ben-Ezra & Katz to notify Mr. Cornell of the hearing and communicating the requirements of this Order.

17. Based on the foregoing, Defendant's Motion to Vacate Judgment is GRANTED.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, on 01/28/11 10:54 AM.

Signed and Dated

JAN 28 2011

Judge Maxine Cohen Lando


MAXINE COHEN LANDO
CIRCUIT COURT JUDGE

The movant shall, using any method(s) mandated by the Florida Rules of Civil Procedure serve all parties/counsel of record with a true and correct copy of this Order IMMEDIATELY and file proof of service with the Clerk.

Signed and stamped original Order sent to court file by Judge Lando's staff.
Electronic copy furnished ONLY to any below listed recipient(s) by facsimile whose facsimile number(s) is/are CORRECTLY FORMATTED and listed herein.

Copies furnished to: Counsel of Record
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