

SUPREME COURT - STATE OF NEW YORK
I.A.S. PART XXXVI SUFFOLK COUNTY

PRESENT:
HON. PAUL J. BAISLEY, JR., J.S.C.

INDEX NO.: 19057/2004

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MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC. AS NOMINEE FOR
COUNTRYWIDE HOME LOANS, INC.,

MOTION DATE: 12/02/2004
(Original: 10/07/2004)

MOT. NO.: 001 MD - CASDISP

Plaintiff,

-against-

ROSEMARIE TRAPANI, EVERHOME
MORTGAGE COMPANY, ROBIN L. LONG,
ESQ., "JOHN DOES," and "JANE DOES," said
names being fictitious, parties intended being
possible tenants or occupants of premises, and
corporations, other entities or persons who claim, or
may claim, a lien against the premises,

PLAINTIFF'S ATTORNEY:
ROSICKI, ROSICKI & ASSOCIATES,
P.C.
By: Amy Rameau, Esq.
One Old Country Road, Suite 200
Carle Place, New York 11514

Defendants.

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DEFENDANT PRO SE:
ROSEMARIE TRAPANI
1 Campus Lane
Ronkonkoma, New York 11779

Upon the following papers numbered 1 to 13 read on this motion to appoint a referee: Notice of Motion , Affirmation and Affidavit 1 to 13 and supporting papers; it is

ORDERED that the unopposed motion (motion sequence no. 001) of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR COUNTRYWIDE HOME LOANS, INC., for an order appointing a referee to compute the total sums due and owing to plaintiff and to amend the caption is denied and the complaint is dismissed.

The submissions reflect that neither the nominal plaintiff, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS"), nor Countrywide Home Loans, Inc. ("Countrywide"), for which MERS purports to be the "nominee," is the record owner of the mortgage sought to be foreclosed herein. The note and mortgage that are the subject of this foreclosure action identify the lender as Alliance Mortgage Banking Corp. MERS is identified in the mortgage instrument only as "a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns." There is no allegation or proof in the submissions as to any assignment of the note and mortgage to Countrywide, to MERS, or to any other entity, and plaintiff's counsel has asserted no authority, statutory or otherwise, for the bare assertion that "[w]here 'MERS' is the mortgagee of record there is no need to prepare an assignment." It is well established that "foreclosure of a mortgage may not be brought by one who has no title to it."

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