

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2013

WILLIAM A. CROMARTY and **MAUREEN CROMARTY**,
Appellants,

v.

WELLS FARGO BANK, NA,
Appellee.

No. 4D11-4435

[April 17, 2013]

GERBER, J.

The borrowers appeal from the circuit court's final summary judgment of foreclosure in the bank's favor. The borrowers argue, among other things, that the bank failed to negate their affirmative defense of lack of standing. Specifically, the borrowers argue that the note's blank endorsement was undated and the bank's evidence was insufficient to establish that it held the note and was entitled to enforce the note at the time it filed suit.

We agree with the borrowers' argument as to standing and reverse. *See Hall v. REO Asset Acquisitions, LLC*, 84 So. 3d 388 (Fla. 4th DCA 2012) ("While the note introduced had a blank endorsement and was sufficient to prove ownership by appellee, who possessed the note, nothing in the record shows that the note was acquired prior to the filing of the complaint. The endorsement did not contain a date, nor did the affidavit filed in support of the motion for summary judgment contain any sworn statement that the note was owned by the plaintiff on the date that the complaint was filed."). We conclude the borrowers' other arguments lack merit.

Reversed and remanded.

MAY, C.J., and TAYLOR, J., concur.

* * *

Appeal from the Circuit Court for the Seventeenth Judicial Circuit,
Broward County; Marina Garcia-Wood, Judge; L.T. Case No. 09-43383
CACE.

Carol A. Gart of Carol A. Gart, P.A., Boca Raton, for appellant.

Donna L. Eng, Michael K. Winston and Dean A. Morande of Carlton
Fields, P.A., West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.