2015 IL App (2d) 140651-U
No. 2-14-0651
Order filed June 4, 2015

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

CITIMORTGAGE, INC., as Assignee of Mortgage Electric Registration Systems, Inc., as Nominee for CitiMortgage, Inc.,	)	Appeal from the Circuit Court of Kendall County.
Plaintiff-Appellee,	)	
v.	)	No. 10-CH-1441
HUI-JUI LISA OKAHATA,	)	
Defendant-Appellant	)	
(Unknown Tenants, Unknown Owners, and Nonrecord Claimants, Defendants).	)	Honorable Bradley J. Waller, Judge, Presiding.

JUSTICE McLAREN delivered the judgment of the court.
Justices Zenoff and Hudson concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's foreclosure judgment was proper: plaintiff had standing, as, among other things, it was the holder of the note, which was validly assigned; plaintiff was exempt from the Residential Mortgage License Act; and plaintiff did not violate the Truth in Lending Act.

¶ 2 Defendant, Hui-Jui Lisa Okahata, appeals *pro se* from a judgment foreclosing a mortgage on real property and confirming the sale of the property. We affirm.

¶ 3 On October 7, 2010, plaintiff, CitiMortgage, Inc. (CMI), as the assignee of Mortgage Electronic Registration Systems, Inc. (MERS), CMI's nominee, filed a complaint to foreclose a mortgage on defendant's property at 2070 William Drive in Montgomery. The complaint alleged that defendant defaulted on the note on February 1, 2010. It attached copies of the mortgage and the notes secured thereby. The mortgage, recorded on April 16, 2007, named MERS as the mortgagee. The note, dated March 16, 2007, named CMI as the lender. Also attached to the complaint was an "Assignment of Mortgage," dated June 8, 2010, and recorded June 29, 2010, stating that MERS, as CMI's nominee, had transferred the mortgage to CMI. It was signed by Kim Krakoviak as vice president of MERS. On February 3, 2011, defendant filed an answer, alleging that the property identification number (PIN) the complaint gave was not that in the assignment and that, as a result, CMI lacked standing to foreclose the mortgage.

¶ 4 On December 9, 2011, CMI moved for summary judgment (735 ILCS 5/2-1005(c) (West 2010)), contending in part that the discrepancy in PINs did not bar the foreclosure action. CMI argued that, as the holder of the note, it had standing. CMI attached a copy of the note with a stamped endorsement in blank by William Filis, identified as a vice president of CMI. CMI argued that the endorsement in blank, couple with its possession of the note, made it the holder.

¶ 5 On November 19, 2012, the trial court granted CMI summary judgment and ordered the property sold. On CMI's motion, the court also dismissed all defendants other than Okahata.

¶ 6 On December 19, 2012, defendant moved to reconsider, arguing that CMI lacked standing. She argued as follows. The mortgage was executed on March 16, 2007, and identified CMI as the lender and MERS as the mortgagee and CMI's nominee. Also on March 16, 2007, the note was executed, but, at that time, it had no endorsement in blank. On April 16, 2007, the note was recorded. On October 7, 2010, CMI filed the foreclosure action, in its capacity as "the

legal holder of the indebtedness," attaching a copy of the assignment and mortgage. CMI's motion for summary judgment attached a copy of the note; unlike the copy of the note attached to the complaint, this copy included the endorsement in blank with Filis's facsimile signature. CMI's motion argued that the note had been transferred to it via the endorsement in blank, so that it had standing to file the foreclosure suit. Defendant argued that the endorsement in blank was invalid, as there was no evidence that Filis had adopted the facsimile signature with the intent to authenticate his certification. Thus, the endorsement in blank had not converted the note into bearer paper, and CMI's possession of it on October 7, 2010, did not cure the invalid assignment of the mortgage to CMI. Defendant argued further that Krakoviak signed the assignment as vice president of MERS but had signed other documents as vice president of CMI; as an agent may not act simultaneously for two principals, the assignment was void.

¶ 7 Defendant's motion attached a copy of the assignment, which was dated June 8, 2010, and stated that MERS assigned the mortgage, together with the note, to CMI. The assignment was signed by Krakoviak and notarized by Dennis Luecke.

¶ 8 On February 25, 2013, the trial court denied defendant's motion to reconsider. On March 13, 2013, defendant moved to compel the production of the original note. She argued again that Filis's signature was a facsimile and that CMI had not proved that he executed it with the intent to authenticate the endorsement in blank. Defendant also moved to stay the foreclosure sale.

¶ 9 On April 17, 2013, the trial court stayed the sale. On June 5, 2013, it granted defendant's motion to compel and continued the stay. On July 10, 2013, CMI's attorney produced the original note. The judge observed that there was an endorsement in blank by Filis and that the note stated that CMI was the lender. The court lifted the stay of the sale.[1]

[1]On August 20, 2013, defendant filed a petition under section 2-1401 of the Code of Civil

¶ 10 On August 20, 2013, defendant filed an "emergency" motion to stay the foreclosure sale and reconsider the order of July 10, 2013. On August 21, 2013, the trial court heard the motion. Defendant asserted that the mortgage had been transferred into a real estate mortgage investment conduit (REMIC), securitizing the mortgage, so that CMI could foreclose only if it showed that it was the agent of the REMIC's certificate holders. The judge observed that CMI held the original note, and he inquired whether that made CMI the holder under the Uniform Commercial Code (810 ILCS 5/1-101 *et seq.* (West 2010)). Defendant conceded that it did, but she argued that the Illinois Mortgage Foreclosure Law (Foreclosure Law) (735 ILCS 5/15-1101 *et seq.* (West 2010)) did not allow a mere holder to file a foreclosure suit.

¶ 11 CMI argued that it needed be only the holder of the note; it did not need to own any beneficial interest in it. Moreover, CMI had raised a presumption it was a proper party by attaching a copy of the note to its complaint. The judge held that, as the holder of the note, CMI had standing, even had it not owned the loan on the date that it filed the complaint.

¶ 12 On October 1, 2013, CMI filed a notice that a sheriff's sale would be held on November 14, 2013. On October 8, 2013, defendant again moved to vacate the judgment. She alleged in part that, at the August 21, 2013, hearing, CMI's counsel had materially misled the court. Specifically, although the caption of the foreclosure complaint described CMI as the assignee of MERS as nominee for CMI, CMI's full title was really "CITIMORTGAGE, INC. AS SERVICER FOR CMALT (CITIMORTGAGE ALTERNATIVE LOAN TRUST) SERIES 2007-A5 REMIC PASS-THROUGH CERTIFICATES." According to defendant, her mortgage had been placed into "CMALT #3, SERIES 2007-A5." On March 1, 2007, a pooling and

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Procedure (735 ILCS 5/2-1401 (West 2012)) against the judgment of foreclosure and sale. She abandoned this petition and we mention it no further.

servicing agreement (PSA) was signed by CMI; CitiMortgage Securities, Inc. (CMSI); U.S. Bank, N.A., as trustee; and Citibank, N.A., as paying agent, certificate registrar, and authenticating agent. The PSA governed the CMALT Series 2007-A5 REMIC pass-through certificates that the trust had issued March 28, 2007. On March 30, 2007, CMSI assigned the mortgage loans to the CMALT. According to the REMIC, all mortgages had to be placed into the CMALT by August 28, 2007, and the certificates had to be sold on the open market. Defendant noted that, in a letter dated September 9, 2013, CMI told her, "[The CMALT REMIC] is the current investor on your account."

¶ 13 Based on the foregoing, defendant argued that CMI could have had standing to file the foreclosure suit only had it been the certificate holders' agent at the time. She maintained that there was no evidence that any certificate holders had authorized CMI to file the suit.

¶ 14 On October 25, 2013, the trial court stayed the foreclosure sale pending a hearing on defendant's motion. On November 12, 2013, CMI responded to the motion. It contended that defendant's reliance on the letter of September 9, 2013, to assert that CMI did not own the note assumed that the endorsement in blank had been valid, so that (according to her theory) the mortgage and note had been transferred to the CMALT in 2007. This assumption flatly contradicted her repeated contention that the endorsement was invalid. Further, the letter did not prove her claim that CMI had transferred the note and mortgage to the CMALT. CMI had committed no fraud. As the holder of the note (see 810 ILCS 5/1-201(b)(21)(A) (West 2010)), it could enforce the obligation that the note created (see 810 ILCS 5/3-301 (West 2010)).

¶ 15 On December 13, 2013, the trial court held a hearing. Defendant again argued that, for CMI to establish standing, it would need to show that it was the agent of the certificate holders of the REMIC. CMI argued that it need not have owned the beneficial interest in the note, as long

as it was the holder. The court continued the proceedings so that defendant could examine the PSA.

¶ 16 On January 10, 2014, defendant filed a reply, arguing that, because CMI owned neither the note nor the mortgage, it had no standing to enforce them. She cited the letter of September 9, 2013, in which CMI stated that the CMALT was the current "investor" in the mortgage.

¶ 17 On February 14, 2014, defendant filed a "sur-response" to CMI's motion for summary judgment. She argued that CMI lacked standing, because it had earlier sold the note and mortgage to CMSI, which then assigned them to the CMALT. Thus, the facts "strongly suggest[ed]" that, on October 7, 2010, the note and mortgage were physically held by Citibank, N.A. At the least, there was a factual issue of who had been the holder. Defendant also argued that, although CMI had alleged that MERS transferred the note to CMI via the 2010 assignment, that paper was signed by Krakoviak, "a well-known 'Robo Signer,' who in the past ha[d] also fraudulently represented that she [was] a Vice-President of CMI, Citibank, N.A.[,] and Associates First Capital Corporation and *** an assistant secretary of MERS."

¶ 18 Defendant's "sur-response" attached several exhibits. They included the assignment recorded June 29, 2010; as noted, it stated that MERS, as nominee for CMI, assigned the mortgage to CMI, and it was signed by Krakoviak as a vice president of MERS. Next were copies of several of Krakoviak's signatures, identifying her variously as vice president of MERS, vice president of Citibank, N.A., assistant secretary of MERS, or vice president of Associates First Capital Corporation. Finally, there was a page from the May 1, 2007, PSA, which recited the establishment of a trust to be called the "CMALT *** Series 2007-A5," which would issue a series of certificates known as CMALT Series 2007-A5 REMIC Pass-Through Certificates.

¶ 19 On February 14, 2014, the trial court held a hearing on CMI's motion for summary judgment. Defendant conceded that the PSA did not require certificate-holder approval for the filing of a mortgage foreclosure suit; paragraph 3.12 of the PSA (we note specifically) reads, "[CMI] will use its best efforts, consistent with its customary servicing procedures, to foreclose upon or otherwise comparably convert the ownership of properties securing any mortgage loans that continue in default and as to which no satisfactory arrangements can be made for collection of delinquent payments ***." However, defendant maintained, there was still a factual issue of who held the note when the action was filed. CMI responded that defendant had the burden to prove CMI's lack of standing and that the PSA merely stated that, as of the date the CMALT was created, Citibank, N.A., was the custodian of the notes in the CMALT. Further, CMI argued, the law allowed CMI to file the complaint as the agent of the holder and, as the servicer of the CMALT, CMI was Citibank, N.A.'s agent. The court granted CMI summary judgment.

¶ 20 On February 21, 2014, defendant filed an "emergency" motion to reconsider the judgment and stay the foreclosure sale. Defendant's motion argued that CMI had lacked standing to bring the foreclosure action. The motion asserted that CMI was not the legal holder of the note, as, after it sold the mortgage to CMSI, the obligation to CMI embodied in the note had been discharged by payment (see 810 ILCS 5/3-602 (West 2006)). At that time, defendant maintained, CMI ceased to have any rights as the payee and thus was not the legal holder. Next, she argued, CMI could not claim standing as the CMALT's agent, because, on October 7, 2010, the CMALT lacked legal title to the note. Despite CMI's argument that the endorsement in blank had transferred the note to the CMALT, the endorsement in blank had never been valid, as it was computer-generated and "unreadable." The trial court denied the motion, and the sale proceeded.

¶ 21 On February 24, 2014, CMI moved to confirm the sale, attaching a copy of the sheriff's report. On April 15, 2014, defendant filed objections to CMI's motion, requesting that the court vacate both the sale and the underlying judgment of foreclosure, on the ground that justice had not been done (see 735 ILCS 5/15-1508(b)(iv) (West 2012)). Defendant argued, for the first time, that CMI had not been properly licensed under the Residential Mortgage License Act of 1987 (License Act) (205 ILCS 635/1-1 *et seq.* (West 2010)) when it entered into the mortgage agreement with defendant. See *First Mortgage Co., LLC v. Dina*, 2014 IL App (2d) 130567. Defendant also argued for the first time that the signature of Luecke, the notary public, on the assignment was forged. Next, she reiterated that there was at least an issue as to the intention of Filis. Finally, defendant argued, for the first time, that CMI had violated the Truth in Lending Act (TILA) (15 U.S.C. § 1601 *et seq.* (2006)) by failing to inform her within 30 days that the loan had been assigned; failing to provide, in its loan documents, the loan originator's "NMLSR [(Nationwide Mortgage Licensing System and Registry)] ID"; and failing to use a third-party appraiser.

¶ 22 On April 21, 2014, the trial court heard the motion. Defendant argued that CMI could not file an independent action as the payee, because CMSI had already paid it for the note. Section 3 of the PSA did say that CMI could file foreclosure actions, but the note had to get into the CMALT via the endorsement in blank. However, the endorsement in blank was unreadable and computer-generated, so it had never been transferred to the CMALT.

¶ 23 CMI responded that it had standing "independent of anything" because it was the holder of the original note and the endorsement in blank was readable and valid. Whether CMI had been paid or not, it could enforce the note. The judge asked defendant whether she had conceded that CMI could sue as an agent. Defendant responded that that was "technically correct" under

article 3 of the Uniform Commercial Code (810 ILCS 5/3-101 *et seq.* (West 2010)) but that the Foreclosure Law said not "holder" but "legal holder." Defendant admitted that she had changed her argument and was now asserting that CMI's agency was invalid because the note had never been properly transferred to the CMALT.

¶ 24 On May 13, 2014, CMI responded to defendant's objections, arguing that her invocation of the Foreclosure Law's "justice clause" relied wholly on factual conclusions and ignored that the clause applied only to the conduct of the sale. In any event, CMI argued, the objections lacked merit. First, CMI contended, at all pertinent times, it was either exempt from the License Act or compliant with it. Since 2006, it had been the mortgage-servicing subsidiary of Citibank, N.A., which, as a national bank, had been exempted from state licensing laws (see *Watters v. Wachovia Bank, N.A.*, 550 U.S. 1, 6-7 (2007)). Second, CMI contended, the court had already ruled that CMI had standing, based on the original note, which was endorsed in blank. Defendant now asserted that the signatures on the assignment were forged, but, even if so, that was irrelevant: the note gave CMI standing, and the Foreclosure Law did not require it to supply any documentation other than copies of the note and mortgage (see *Rosestone Investments, LLC v. Garner*, 2013 IL App (1st) 123422, ¶ 24). Thus, as the note's holder, CMI had standing (see *Federal National Mortgage Ass'n v. Kuipers*, 314 Ill. App. 3d 631, 672 (2000)).

¶ 25 Finally, CMI contended, defendant had not raised any issue as to CMI's compliance with TILA. The 30-day-notification provision did not go into effect until 2010, three years after the note was sold; in any event, as defendant herself had noted, it required only the purchaser or assignee, not the seller or assignor, to notify the borrower. The requirement that all documents provide the loan originator's NMLSR ID was based on a regulation that applied only to applications received on or after January 10, 2014. Finally, the argument that a third-party

appraiser was required failed, because the applicable regulation required only that an appraiser have no financial interest in the property or loan at issue. Defendant had not even identified an appraiser involved in the mortgage, much less any impermissible interest.

¶ 26 On May 30, 2014, the trial court confirmed the sheriff's sale. Defendant timely appealed.

¶ 27 In her *pro se* appellant's brief, defendant raises several issues, although, as best we can discern, many fewer than her brief's "Points and Authorities" section sets out. As best we can tell, she argues that (1) for various reasons, CMI lacked standing to file the foreclosure action; (2) CMI violated the License Act; and (3) CMI violated TILA.

¶ 28 We note that defendant apparently attempts to raise other arguments that either: (1) were not raised in the trial court; (2) are unsupported by either cogent argument or any citation to pertinent authority; or (3) suffer from both defects. These other potential issues are forfeited. See *Haudrich v. Howmedica, Inc.*, 169 Ill. 2d 525, 536 (1991) (appellant may not seek reversal on theory not raised in trial court); *Holmstrom v. Kunis*, 221 Ill. App. 3d 317, 325 (1991) (arguments insufficiently raised may be deemed forfeited). As we shall note, defendant's procedural default is not limited to these potential issues.

¶ 29 Defendant challenges both the trial court's grant of summary judgment on the underlying foreclosure issue and the court's final judgment confirming the foreclosure sale. We review summary judgment *de novo* (*Harrison v. Addington*, 2011 IL App (3d) 100810, ¶ 37), and we review the order confirming the foreclosure sale for abuse of discretion (*Parkway Bank & Trust Co. v. Korzen*, 2013 IL App (1st) 130380, ¶ 15). Defendant has shown no error in either ruling.

¶ 30 We turn to defendant's contention that CMI lacked standing to bring the foreclosure action.[2] As best we can discern, defendant argues specifically that, on October 7, 2010, when

[2] We need not decide whether defendant's argument is that CMI lacked "standing" or

CMI filed the foreclosure complaint, (1) it was not, as its complaint alleged, the legal holder of the indebtedness, having transferred the note to CMSI in return for payment; (2) it could not rely on the assignment of the mortgage from MERS, because (a) Filis's signature on the note's endorsement in blank was a facsimile and CMI did not prove that he had intended to authorize the assignment; and (b) Krakoviak "robo-signed" the assignment; and (3) CMI could not sue as the CMALT's agent, because the endorsement in blank in the original assignment was invalid.

¶ 31 CMI responds as follows to defendant's standing-related arguments. First, as the possessor of the note that was properly endorsed in blank, CMI was the holder of bearer paper; thus, it had standing. Second, even had the note not been properly endorsed, CMI had standing as the holder of a note specifically payable to it. Third, even if CMI had transferred the mortgage to the CMALT, it retained its status as the holder of the blank-endorsed note.

¶ 32 The Foreclosure Law defines a "mortgagee," who may file a foreclosure complaint, as "(i) the holder of an indebtedness or obligee of a non-monetary obligation secured by a mortgage or any person designated or authorized to act on behalf of such holder and (ii) any person

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"the legal capacity" to file the foreclosure complaint. We note that the case law is not altogether settled on how to characterize the type of argument that defendant has raised here (and thus on who has the burden of pleading and proof). See *Aurora Bank FSB v. Perry*, 2015 IL App (3d) 130673, ¶ 21 (allegation of capacity to sue under Foreclosure Law (see 735 ILCS 5/15-1208, 15-1504(a)(3)(N) (West 2010)) is a material fact that must be proved whether or not defendant denies it); *Deutsche Bank National Trust Co. v. Gilbert*, 2012 IL App (2d) 120164, ¶ 16 (noting but not resolving defendant-mortgagor's argument that, under Foreclosure Law, burden was on plaintiff-mortgagee to prove standing by proving capacity to file foreclosure complaint). We hold that, either way, the trial court's decision must stand.

claiming through a mortgagee as successor." 735 ILCS 5/15-1208 (West 2010). Under section 15-1504(a)(3)(N) of the Foreclosure Law (735 ILCS 5/15-1504(a)(3)(N) (West 2010)), a plaintiff must specify the capacity in which it brings the claim: as one (or more) of "the legal holder of the indebtedness, a pledgee, an agent, the trustee under a trust deed or otherwise, as appropriate[.]" To bring a foreclosure action, a party must have this status when the suit is filed, and not later. *Gilbert*, 2012 IL App (2d) 120164, ¶ 15. A party may file a foreclosure claim even if the beneficial ownership of the note is in another person. *Mortgage Electronic Registration Systems, Inc. v. Barnes*, 406 Ill. App. 3d 1, 7 (2010).

¶ 33 We hold that CMI had standing. We note that, in the trial court, defendant argued both that (1) CMI lacked standing because the note and mortgage had been transferred to CMSI and then to the CMALT, so that CMI did not hold the indebtedness; and (2) the assignment of the note from MERS to CMI was void (on whatever basis). We agree with CMI that, whichever theory defendant used or now uses, CMI had standing.

¶ 34 CMI established a *prima facie* case of standing (or capacity) as the holder of the note by attaching a copy of the note and mortgage to its complaint. See *Rosestone Investments, LLC v. Garner*, 2013 IL App (1st) 123422, ¶¶ 24-25. Defendant did not rebut this case. Defendant's first theory is that CMI lacked standing because, by the time that it filed the foreclosure suit, it had sold its interest to CMSI, which then deposited that interest into the CMALT. However, as CMI points out, because a mortgagor is neither a party to nor a third-party beneficiary of a PSA, she may not raise the PSA as a defense. See *Bank of America National Ass'n v. Bassman FBT, L.L.C.*, 2012 IL App (2d) 110729, ¶¶ 21, 26-28.[3] Thus, ironically, defendant's first challenge to

[3] Based on the PSA's choice-of-law provision, *Bassman* applied New York law to hold that the allegedly improper assignment was merely voidable and not void, so that the defendant-

CMI's standing fails because she lacks standing to assert it. Moreover, CMI physically possessed the note, which it produced in open court, and it was not necessary that CMI still hold the beneficial interest in it. In the trial court, defendant conceded that (assuming the validity of the endorsement in blank), the note was bearer paper, making CMI the holder. See 810 ILCS 5/3-109(a), 205(b) (West 2010).

¶ 35 Finally, defendant's argument ignores that a foreclosure suit may be brought by an agent of the legal holder of the indebtedness (see 735 ILCS 5/15-1504(a)(3)(N) (West 2010)). Even if the PSA made a party other than CMI (such as CMSI or a certificate holder) the legal holder of the indebtedness (or the mortgagee), section 3.12 of the PSA explicitly authorized CMI to file a foreclosure action on that party's behalf. Thus, CMI had standing as an agent.

¶ 36 Defendant's second theory is that the assignment of the note from MERS to CMI was void because (a) Filis's signature in the endorsement in blank was "unreadable" and CMI did not prove that he intended to authenticate his signature; and (b) Krakoviak's and Luecke's signatures were forged. As to (a), we agree with the trial court that Filis's stamped signature is perfectly readable, and we agree with CMI that it was defendant's burden to rebut the presumption that the endorsement was valid. See *In re Estate of Cuneo*, 334 Ill. App. 3d 594, 598 (2002) (presumption of validity). She did nothing to do so. As to (b), we consider this argument forfeited for failure to support it with any authority or serious argument (see Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008)), and, in any event, we agree with CMI that, at the trial level, defendant did not seriously pursue her fraud arguments, which the court did not accept.

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mortgagor lacked standing to challenge it. *Bassman*, 2012 IL App (2d) 110729, ¶ 18. This does not present a problem here; the PSA similarly provides that New York law governs.

¶ 37 Moreover, we agree with CMI that, if the assignment were not valid, that would not have deprived CMI of standing, because it would have been the holder of a note payable to itself (see 810 ILCS 5/1-201(b)(21)(A) (West 2010)). We hold that defendant's contention that CMI lacked standing to bring the foreclosure is without merit.

¶ 38 We turn to defendant's next argument: that the mortgage was void because CMI had not been licensed in accordance with the License Act. We agree with CMI that the License Act did not apply, because CMI was exempt at all pertinent times. The National Bank Act (12 U.S.C. §1 *et seq.* (2006)) exempts national banks from state licensing laws. *Watters v. Wachovia Bank*, 550 U.S. 1, 13 (2007). This exemption extends to national banks' operating subsidiaries, *i.e.*, those subsidiaries that are authorized to do only what the bank itself may do. *Id.* at 21-22. Defendant does not, and cannot, deny that CMI is the operating subsidiary of a national bank, Citibank, N.A. Moreover, the License Act's definition of "exempt person or entity" includes national banks. 205 ILCS 635/1- 4(d)(1)(ii) (West 2010)). We must read the exemption in harmony with federal law. See *Watters*, 550 U.S. at 13, 21 (harmonizing Michigan statute with federal statute by reading state exemption for national banks to include operating subsidiaries that are protected by federal law). Thus, under both federal and state law, CMI, as an operating subsidiary of a national bank, was exempt from the License Act.

¶ 39 Defendant contends (as best we can surmise) that the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (see 12 U.S. C. § 25b(e) (Supp. IV 2011)) repealed the exemptions on which CMI relies. We agree with CMI, however, that the Dodd-Frank Act does not apply retroactively to the alleged violations.

¶ 40 The Dodd-Frank Act "shall not be construed to alter or affect the applicability of any regulation, order, guidance, or interpretation prescribed, issued, and established by the

Comptroller of the Currency or the Director of the Office of Thrift Supervision regarding the applicability of State law under Federal banking law to any contract entered into on or before July 21, 2010, by national banks *** or subsidiaries thereof that are regulated and supervised by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, respectively." (12 U.S.C. § 5553 (Supp. IV 2011)). Thus, the law does not apply to contracts, including mortgages, notes, or assignments, that were entered into before July 21, 2010. See *Copeland-Turner v. Wells-Fargo Bank, N.A.*, 800 F. Supp. 2d 1132, 1137-38 (D. Ore. 2011). Here, the mortgage, note, and assignment were all entered into before July 21, 2010, so there is no basis for defendant to invoke whatever modifications the Dodd-Frank Act made to the scope of preemption under the National Bank Act and the License Act. We thus reject defendant's License Act-based challenge to the judgment.

¶ 41 Finally, we consider defendant's argument that CMI violated TILA. For two reasons, we reject this argument. First, defendant did not raise this issue until after CMI moved to confirm the foreclosure sale, and she relied on the "justice clause" of the Foreclosure Law (735 ILCS 5/15-1508(b)(iv) (West 2010)). Thus, defendant could not obtain relief against the underlying judgment of foreclosure unless she could establish both that (1) she had a meritorious defense to the underlying judgment; and (2) justice was not otherwise done, because either (a) CMI, through fraud or misrepresentation, prevented her from raising her meritorious defense earlier in the proceedings or (b) she had equitable defenses that revealed that she was otherwise prevented from protecting her property interests. See *Wells Fargo Bank, N.A. v. McCluskey*, 2013 IL 115469, ¶ 26. Defendant did not even attempt to prove the second prerequisite. We see no excuse for delaying her TILA argument until after CMI had moved to confirm the sale.

¶ 42 In any event, the argument lacks merit, even were defendant entitled to raise it now. Defendant contends first that, when CMI sold the note to the CMALT in 2007, it failed to comply with TILA's 30-day notice rule. As CMI notes, the section of TILA on which defendant relies states, "not later than 30 days after the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, *the creditor that is the new owner or assignee of the debt* shall notify the borrower in writing of such transfer[.]" (Emphasis added.) 15 U.S.C. § 1641(g)(1) (Supp. III 2010). Thus, as this section obliged CMI to do nothing, defendant's contention that CMI violated the section lacks merit.

¶ 43 Defendant's argument on the second alleged violation consists of the statement, "TILA 1026.36(g) mandates that all loan documents provides [*sic*] loan originator's NWLSR [*sic*] ID *** which CMI did not provide in any loan documents." Defendant's sole citation in support of this assertion is to her April 15, 2014, objections to CMI's motion to confirm the foreclosure sale, in which this same assertion appeared, essentially verbatim, with no proper citation to authority and no accompanying argument. The argument is a mere conclusion (and a mystifying one, as TILA itself has no section 1026.36). It is forfeited. See Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008); *Holmstrom*, 221 Ill. App. 3d at 325.

¶ 44 For the foregoing reasons, we affirm the judgment of the circuit court of Kendall County.

¶ 45 Affirmed.