

STATE OF MICHIGAN  
COURT OF APPEALS

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ESTATE OF BESSIE S. MARTIN,  
Plaintiff-Appellant,

UNPUBLISHED  
August 23, 2012

v

THE BANK OF NEW YORK, as Trustee, a/k/a  
THE BANK OF NEW YORK MELLON,  
Defendant-Appellee.

No. 301938  
Wayne Circuit Court  
LC No. 09-014538-CK

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Before: SAAD, P.J., and SAWYER and CAVANAGH, JJ.

MEMORANDUM.

Plaintiff appeals by right an order granting defendant's motion for summary disposition in this foreclosure action. We affirm.

On appeal, plaintiff argues that Mortgage Electronic Registration Systems (MERS) was not authorized by MCL 600.3204(1)(d) to foreclose by advertisement because it had no interest in the indebtedness; thus, the foreclosure is void ad initio. We disagree.

Although this issue is unpreserved because it was not raised in the trial court, we will review this question of law. See *Vushaj v Farm Bureau Gen Ins Co*, 284 Mich App 513, 519; 773 NW2d 758 (2009).

Plaintiff's argument relies on the holding in *Residential Funding Co, LLC v Saurman*, 292 Mich App 321; 807 NW2d 412 (2011). However, our Supreme Court reversed that decision and held that MERS is authorized to foreclose by advertisement under MCL 600.3204(1)(d). *Residential Funding Co, LLC v Saurman*, 490 Mich 909; 805 NW2d 183 (2011). Specifically, the Court held that MERS, the mortgagee of record, was the owner of "an interest in the indebtedness secured by the mortgage" as required by MCL 600.3204(1)(d) because its "contractual obligations as mortgagee were dependent upon whether the mortgagor met the

obligation to pay the indebtedness which the mortgage secured.” *Saurman*, 490 Mich at 909. Accordingly, plaintiff’s argument is without merit.

Affirmed.

/s/ Henry William Saad

/s/ David H. Sawyer

/s/ Mark J. Cavanagh