

CAPITOL ♦ TITLE

A 25-Year Foreclosure?

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Recent news stories have focused on the problems and delays that have been encountered throughout the country by mortgage lenders and their attorneys in connection with the management and processing of an overwhelming number of foreclosures on residential properties. A case in Okeechobee County, Florida gives new meaning to the concept of a “prolonged” foreclosure case.

Patsy Campbell, a 71-year-old retired insurance saleswoman has been living in her home located in a middle-class neighborhood in central Florida since 1978. The last time that Patsy made a mortgage payment was in 1985. The home was originally purchased by Paul Campbell, Patsy’s late husband in 1978, utilizing a \$68,000.00 mortgage to fund the purchase. Paul added Patsy to the title in 1980 and died later that year, leaving Patsy as the sole owner of the property. In 1985 Patsy stopped making mortgage payments due to an illness that caused her to lose income and get behind on her obligations. The defaulted loan changed hands several times during the savings and loan crisis in the late 1980’s and 1990’s and each lender that started foreclosure against her either merged or collapsed, causing the foreclosure cases to be dismissed due to a failure of the lender to proceed. Eventually the loan became owned by Resolution Trust Corporation, the federally owned asset manager that liquidated assets of insolvent savings and loans, and later, by the Federal Deposit Insurance Corporation. In June, 1998 the FDIC sold the mortgage to mortgage lender which started a foreclosure proceeding in 2000.

Patsy fought the foreclosure, and filed numerous briefs and motions which asserted dozens of reasons why she thought the mortgage lender did not have the right to foreclose. She has filed seven appeals of various court rulings in the case, causing extended hearings and delays in the proceedings. In 2007 the court dismissed all but two of Patsy’s defenses and scheduled a trial to finally determine the merits of those defenses for October, 2010. In response, Patsy filed a bankruptcy petition, which has effected blocked the foreclosure sale until a stay is lifted by a bankruptcy court order which will give the county court the right to proceed with the trial. Her bankruptcy filing lists the property value at \$225,000 and lists the mortgage balance owed as \$63,801, which is equal to the unpaid principal balance on her mortgage. The mortgage lender’s filings state that Patsy owes the \$63,801 in principal and \$148,000 in interest. The bankruptcy court is expected to make a ruling on the mortgage lender’s request for permission to proceed with the foreclosure proceeding very soon.

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