

MERS

Bifurcation

Negotiable Instrument

Security Instrument

MERS can file a "Notice of Assignment" of the "Security Instrument" but MERS cannot negotiate the Negotiable Instrument since MERS never came into possession of the Negotiable Instrument. The fact here that MERS assigned the Security Instrument verifies the bifurcation (separation) of the Security Instrument from the Negotiable Instrument has taken place, since this was done the Negotiable Instrument no longer has a "Secured" status and as such the Negotiable Instrument is now an "Unsecured" Indebtedness and the most that could be achieved is a "Money Judgement" if and when the Negotiable Instrument could be proved up. Since the Security Instrument is a nullity then there can not be a trigger of the foreclosure clause contained in the Security Instrument.

A Negotiable Instrument is negotiated per the Uniform Commercial Code Article 3 - Negotiable Instruments or states equal and the assignments filed in public records are just notice that these negotiations took place. Assignment Notices filed in public records only reflect the Negotiable Instrument's current owner and holder.

You do not assign a Negotiable Instrument. You negotiate the Negotiable Instrument.

Local Laws of Recordation require recordation of the "Notices of Assignments" that reflect the negotiation of the Negotiable Instrument but failure to file in public records does not render the indebtedness invalid. The failure to file only helps to establish bifurcation of the Security Instrument from the Negotiable Instrument.

Once there is nullity of the Security Instrument it can never be regained as the Negotiable Instrument has been rendered to be an "Unsecured" Indebtedness.

The Negotiable Instrument might be proved up by following the Uniform Commercial Code or the states equal by completing the chain of Endorsements which might possibly prove "Holder/Holder In Due Course" and if such is proved up then possibly there is a method to achieve a legal collection action of a money judgment but the right to trigger a foreclosure contained within the Security Instrument is out of reach.

The best you can get if there is bifurcation of the Security Instrument from the Negotiable Instrument is a money judgment, you cannot foreclose....