

Atlanta Journal-Constitution, The (GA)

January 25, 2009

Section: Metro News

Edition: Main; The Atlanta Journal-Constitution

Page: B1

THE ECONOMY: MORTGAGE CRISIS: WHO OWNS MY HOUSE?

Easy questions hard to answer for succession of lenders.

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Staff

Twenty years ago, Zella Mae Green bought a modest brick ranch house in DeKalb County with an American ideal in mind. The single mother of four, who raised her children working low-wage jobs, wanted to own something someday. And she wanted to pass something on.

"I was thinking that if anything would ever happen to me, the children would have a place they could come and stay," said Green, a seamstress who is 68. "Their father passed away when they were young."

Green says she has done her part, making payments on the house she bought for \$40,000 to the series of lenders who have managed her mortgage over two decades.

But Citigroup and Wells Fargo say Green has failed miserably as a homeowner and is nine years behind on her payments. And they want to take the house.

"Nine years? There ain't no way," Green said. "Ain't no way you can stay someplace for nine years without paying anything."

Determining whether a homeowner is truly years behind on a mortgage seems like a straightforward question.

But Green and a string of lenders have been arguing about the matter in court for years now -- with no resolution in sight. Her lawyer says the lenders have not even proven who owns the mortgage, let alone established how much Green owes.

Citigroup and Wells Fargo and the lawyers representing them declined to be interviewed for this article, citing pending litigation.

Green's case illustrates the complexities of the modern mortgage market and just how difficult it can be to unwind the history of a mortgage. Most mortgages are originated by one lender, then sold -- often repeatedly -- to other lenders or groups of investors. Other companies are often brought in to process payments and manage escrow accounts.

For the thousands of homeowners who are behind on mortgage payments or in a dispute about how much is owed, getting accurate information about a loan can be difficult. Negotiating a resolution -- especially when a series of lenders and managers has been involved -- can be even harder.

"Here is a homeowner who wants to get her mortgage worked out so she can pay it," said Howard **Rothbloom**, Green's attorney. "She can't get it done."

Question of ownership

Green picked out her house 20 years ago. It's a two-bedroom, one-bath brick ranch with about 1,000 square feet. Green borrowed \$40,250 from All Georgia Mortgage at an interest rate of 10 percent in 1988. She felt sure she could handle the \$353 payments with her job at J.C. Penney.

"I was excited about it because I knew one day it would be mine," said Green, now a great-grandmother.

The home's interior today is a reflection of Green. It's adorned with fancy curtains and pillows she made -- the kind she creates in her seamstress job for an upscale decorating company. And it's the place her family gathers to enjoy Green's home cooking.

Trouble with the mortgage began years ago, she said, when she mailed in money orders that she says were applied to the

wrong account – something she believes went on for at least seven months.

The mortgage companies involved with the loan at that time have since sold it.

Green said she sought help from several housing agencies and attorneys over the years, trying to get credit for all the payments she has made. "They told me it's the biggest mess they have ever seen," she said.

All Georgia Mortgage Co. originated Green's loan, but it has been owned or managed by at least seven parties over the years. Citigroup now says it owns the loan and Wells Fargo is managing the payments.

Green acknowledged paying her mortgage late sometimes over the years, but she said she always made up for it. She has filed for bankruptcy four times since 1989 – usually when a lender threatened foreclosure.

Lenders in Georgia can proceed with a foreclosure without the involvement of any court. Bankruptcy automatically stops a foreclosure, and the court generally serves as the forum for resolving mortgage disputes.

Green said the bankruptcies were the only way to try to figure out what happened to her payments and to keep her house.

Complicated accounts

Green's case sounds extreme. But lawyers who represent homeowners say most mortgage lenders rely on such complicated accounting systems that experts have to be hired to even read the history of payments and charges.

"The payment histories are designed by these servicing companies to be gobbledygook," said William J. Brennan Jr., an attorney at Atlanta Legal Aid and national expert on mortgage lending. "Knowing what somebody owes is crucial. They will give you a number, but if you want to see if that's right – good luck."

A payment history provided by lenders in Green's case is complicated. It shows numerous credits on the same day for relatively small amounts, listed as "payment rec'd," but shows no change in the account's balance.

The history also appears to show her account being within months of being current, then suddenly more than seven years behind and then current again in 2000.

Green filed for bankruptcy protection for a fourth time in 2004 with the help of **Rothbloom**, an attorney with a successful record of challenging mortgage lenders.

"I'm just trying to find out two things: What Ms. Green's proper loan balance is and who she owes it to," **Rothbloom** said.

So far, who owns the mortgage has not been resolved.

A lender proves ownership of a mortgage by producing the "promissory note," the document signed at closing in which the borrower agrees to the debt. The note is valuable and can be bought and sold by lenders. But like a personal check, it is only valuable in its original form.

Green's lenders have admitted in court documents they can't find her note. Legal experts say that's a big deal.

"There is no excuse for the inability of mortgage lenders to know where the note is," said Frank Alexander, an Emory University law professor and a leading expert on real estate law. "Without the note, you have virtually nothing. That is the one thing that is always locked in a vault."

The lender says everybody knows that Citigroup owns the note. If Green thought otherwise, they say in court documents, why would she send Citigroup her payments?

Rothbloom says that's not good enough. "Their answer is, 'We have a copy,'" **Rothbloom** said. "My answer is, 'I have a copy, too.'"

Katherine Porter, a University of Iowa law professor, found in a study that lenders routinely fail to file required documents in bankruptcy cases to prove what consumers owe. And their accounting systems, she said, make it hard for them to track the history of payments over the life of a loan, especially when numerous lenders are involved.

Porter said Green's case illustrates how complicated these cases can become.

"If she can't get this information through litigation and with a skilled attorney, what happens to people facing foreclosure who sent their check in and can't get the lender to admit it?" Porter said.

'System is broken'

In legal filings, the lenders say Green has never been able to keep up with the payments. They cite her numerous bankruptcies and the fact that Green participated in a federal program designed to help struggling homeowners between 1997 and 2000.

Rothbloom said payment records appear to show her loan was current in 2000, when under the management of the U.S. Department of Housing and Urban Development. He said it's possible HUD's program transferred past-due payments to the end of the loan to allow Green to stay in the house.

"Anything is a possibility," **Rothbloom** said. "That's why we sued. To find out what's going on."

What **Rothbloom** knows, he said, is that Green has made every payment since 2004. Still, he has made no progress getting lenders to agree to a settlement in a case involving a house that DeKalb County values at \$67,000.

"Why do they want this house?" **Rothbloom** said. "The answer is the system is broken."

Photo

Photo

LOUIE FAVORITE / Ifavorite@ajc.com

After 20 years in her Decatur home, Zella Mae Green may lose it. Since 2004, her attorney says, they have been unable to determine who holds the original mortgage note, whether payments Green made were credited to her account or how much more she owes.

Photo

LOUIE FAVORITE / Ifavorite@ajc.com

Zella Mae Green has been in a stalemate with mortgage lenders for years trying to learn who holds the note on her Decatur home and how much she really owes.

Photo

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