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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2360-15T2

BAC HOME LOANS SERVICING,
LP, f/k/a COUNTRYWIDE HOME
LOANS SERVICING, LP,

Plaintiff-Respondent,

v.

BARRY J. THOMPSON,

Defendant-Appellant,

and

MRS. BARRY THOMPSON, his wife,
ROCHE SURETY AND CASUALTY COMPANY,
INC., PLEASANTDALE NURSERIES,
INC.,

Defendants.

Submitted December 11, 2017 – Decided December 22, 2017

Before Judges Sabatino and Ostrer.

On appeal from Superior Court of New Jersey,
Chancery Division, General Equity, Union
County, Docket No. F-050149-10.

John T. Doyle, attorney for appellant.

Stern, Lavinthal & Frankenberg, LLC, attorneys
for respondent (Mark S. Winter, of counsel and
on the brief).

PER CURIAM

Defendant in this mortgage foreclosure action appeals the trial court's January 8, 2016 order denying his motion to vacate the sheriff's sale of his residence. We affirm.

The factual record is uncomplicated. In 2006 defendant Barry J. Thompson obtained a mortgage loan on his Plainfield residence and signed a promissory note. After defendant defaulted on his mortgage payments, plaintiff BAC Home Loans Servicing, L.P., filed a foreclosure complaint against him in the Chancery Division. In January 2015, final judgment was entered in favor of plaintiff, and a writ of execution was issued.

A sheriff's sale was thereafter scheduled, initially for September 16, 2015. Plaintiff duly served notice of the sale via certified and regular mail, in accordance with Rule 4:65-2. Defendant obtained the maximum two statutory adjournments of the sale, pushing back the sale date to October 14, 2015. The day before that adjourned new date, defendant's attorney appeared in the Chancery Division and presented an Order to Show Cause requesting a further stay of the sale. The court granted defendant's application, rescheduling the sale to November 16, 2015 in an order issued that same day. The following day, the court amended the order to adjourn the sale two days more to

November 18. The court indicated in its order that there would be "no further adjournments" of the sale.

The sheriff's sale took place, as ordered, on November 18, 2015, at which time plaintiff made a successful bid to acquire the property. Neither defendant nor his attorney appeared at the sale. Defendant claims that he had no actual notice of the November 18 adjourned sale date. He also claims he had been led to believe he would have a further chance to enter into a loan modification before the premises were sold.

After the sheriff's sale, defendant moved to vacate the transfer of title, arguing that he lacked proper advance notice of the November 18 sale date. The trial judge denied the motion. The judge noted in his bench ruling that defendant's attorney, acting as his client's agent, had notice of the adjourned date, and that defendant is imputed with his attorney's knowledge.

We affirm, substantially for the sound reasons expressed in Judge Joseph P. Perfilio's January 8, 2016 oral decision. Our case law has not required the formal notice procedures under Rule 4:65-2 to be extended to adjourned foreclosure sales. First Mutual Corp. v. Samojuden, 214 N.J. Super. 122, 128-29 (App. Div. 1986). Instead, actual knowledge of the adjourned sale date is dispositive. Id. at 128.

Here, the trial court sensibly treated the actual notice of the new sale date provided to defendant's attorney – who had applied for the adjournment – to defendant himself based on agency principles. See NPC Litig. Tr. v. KPMG LLP, 187 N.J. 353, 366 (2006) (“[A] principal is deemed to know facts that are known to its agent”); see also Stanley v. Chamberlin, 39 N.J.L. 565, 566 (Sup. Ct. 1877).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION