SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2446-15T3

TOWER LIEN, LLC,

Plaintiff-Respondent,

v.

CARLOS CEPEDA,

Defendant-Appellant,

and

WELLS FARGO BANK, N.A., RAMIN GHOBADI, M.D. and STATE OF NEW JERSEY,

Defendants.

Submitted May 30, 2017 – Decided June 15, 2017

Before Judges Haas and Currier.

On appeal from the Superior Court of New Jersey, Chancery Division, Passaic County, Docket No. F-14539-13.

Carlos Cepeda, appellant pro se.

Riker Danzig Scherer Hyland & Perretti, LLP, attorneys for intervenor-respondent Michael H. Tong (Michael R. O'Donnell, of counsel; Jorge A. Sanchez and John C. Kessler, on the brief).

PER CURIAM

Defendant Carlos Cepeda appeals from the October 30, 2015 order denying his motion to vacate the final judgment of foreclosure. We affirm.

After defendant became delinquent on the real estate taxes for property he owned, the property was acquired at a tax sale auction in 2010 by Tower Lien, LLC (Tower). Defendant was advised that Tower had acquired a lien and the actions he needed to take to redeem the property. When the property was not redeemed, Tower filed a summons and complaint to foreclose the tax sale certificate. Although personally served with the complaint, defendant did not file an answer or otherwise respond.

A request to enter default was filed in June 2013. A subsequent order setting the time, place and amount of redemption was issued and mailed to defendant; however, he did not appear on the set date to redeem the property. Final judgment was entered on November 1, 2013. The property was subsequently sold and transferred to a new owner, Michael H. Tong. Written notice was provided to defendant of Tong's ownership of the property.[1]

[1] Defendant was living at the property at the time of Tong's purchase. He continued to reside there during the pendency of this litigation and made monthly rent payments to Tong.

Almost two years after the entry of final judgment, in August 2015, defendant filed a motion to vacate the judgment pursuant to Rule 4:50-1(d). He argued that he had been "in and out of the count[r]y" and was unable to oppose the foreclosure complaint. He further asserted that the final judgment should be rendered void because the certification supporting the motion was executed by Tower's attorney, not by an employee of the company.

Tong moved to intervene in the matter and opposed defendant's motion. Although advised of the date and time for oral argument, defendant failed to appear in court. On October 30, 2015, the trial judge granted Tong's motion to intervene and denied defendant's motion to vacate the judgment. The judge found that defendant's arguments were without merit and that he had failed to provide any proofs that he had not been properly served with the complaint.

On appeal, defendant does not re-assert his argument that Tower's certification was deficient; he argues instead, and for the first time, that he was not properly served with the complaint. Although we generally do not consider arguments raised for the first time on appeal, Nieder v. Royal Indem. Ins. Co., 62 N.J. 229, 234 (1973), we recognize that the trial judge mentioned the issue of personal service in her ruling. The judge noted the lack

of proofs presented on this issue and concluded that there was no indication that service was improper.

Defendant's argument lacks sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). In his appendix, defendant attached the process server's affidavit of service, which notes that defendant was personally served on May 9, 2013 with the pleadings. He has presented no proofs to the contrary. See Goldfarb v. Roeger, 54 N.J. Super. 85, 90 (App. Div. 1959) (stating "uncorroborated testimony . . . alone is not sufficient to" contest an affidavit in support of service).

Affirmed.