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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-5618-15T2

U.S. BANK NATIONAL ASSOCIATION,
AS TRUSTEE FOR CITIGROUP MORTGAGE
LOAN TRUST 2006-WFHE4, ASSET-BACKED
PASS-THROUGH CERTIFICATES,
SERIES 2006-WFHE4,

Plaintiff-Respondent,

v.

TIMOTHY L. JACKSON and HAPPY
JACKSON, his wife;

Defendants-Appellants,

and

MONMOUTH COUNTY DIVISION OF SOCIAL
SERVICES fka MONMOUTH COUNTY BOARD OF
SOCIAL SERVICES; PNC BANK, NATIONAL
ASSOCIATION fka MIDATLANTIC NATIONAL
BANK/NORTH; 440 ELIZABETH CORPORATION;
CENTRAL MORRIS RADIOLOGY ASSOC.;
MIDLAND FUNDING LLC; CACH OF NEW JERSEY
LLC; NEW CENTURY FINANCIAL SERVICES;
STATE OF NEW JERSEY; DEUTSCHE BANK
NATIONAL TRUST COMPANY, AS TRUSTEE
FOR SOUNDVIEW HOME LOAN TRUST 2006-
WF2, ASSET BACKED CERTIFICATES,
SERIES 2006-WF2,

Defendants.

Submitted October 17, 2017 – Decided December 8, 2017

Before Judges Fisher and Moynihan.

On appeal from Superior Court of
New Jersey, Chancery Division, Camden
County, Docket No. F-036814-13.

Timothy L. Jackson and Happy A. Jackson,
appellants pro se.

Reed Smith LLP, attorney for respondent
(Henry F. Reichner, of counsel and on the
brief; David G. Murphy, on the brief).

PER CURIAM

Defendants appeal from the denial of their motion to vacate a final foreclosure judgment, reiterating the Rule 4:50-1(d)¹ arguments made to the motion judge that the foreclosure judgment was void because there is no evidence plaintiff owned, possessed or controlled the underlying note, and thus plaintiff did not have standing to file the original complaint; and, if plaintiff did not have standing, the court did not have jurisdiction to enter judgment. We affirm because the motion judge correctly found plaintiff had standing.

The record discloses defendant, Timothy L. Jackson, executed a note for \$333,600 to Wells Fargo Bank, N.A.; the note was secured

¹ Rule 4:50-1 provides, in pertinent part that "[o]n motion, with briefs, and upon such terms as are just, the court may relieve a party or the party's legal representative from a final judgment" if "the judgment or order is void."

by a mortgage – signed by Timothy L. and Happy Jackson, husband and wife – on defendants' home. Wells Fargo executed an assignment of mortgage to plaintiff on July 21, 2011.² Plaintiff's complaint alleges the assignment was recorded in the Office of the Camden County Clerk on December 5, 2011. Plaintiff filed the foreclosure complaint on October 11, 2013. Although Timothy L. Jackson answered and counterclaimed, his answer and affirmative defenses were stricken and his counterclaim was dismissed. Plaintiff moved for final judgment which was entered on May 26, 2016.

Defendants moved to vacate the judgment on August 2, 2016.³ The motion judge denied the motion to vacate. She found plaintiff had standing "[w]hether the plaintiff had the original note or whether it had an interest, a financial interest[,] in this matter as a result of the assignment." She further concluded "those events were taken under consideration by the Office of Foreclosure at the time the application was made for final judgment." The judge also found defendants' standing argument was "late" because it was advanced after entry of the final judgment.

Our limited review recognizes that

² The assignment is dated July 19, 2011, but was not executed until July 21.

³ Defendants later attempted to amend the motion; it was, however, marked "received but not filed" because it was not accompanied by the required filing fee.

[t]he trial court's determination under the rule warrants substantial deference, and should not be reversed unless it results in a clear abuse of discretion. The Court finds an abuse of discretion when a decision is "made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible basis."

[US Bank Nat'l Ass'n v. Guillaume, 209 N.J. 449, 467 (2012) (citations omitted) (quoting Iliadis v. Wal-Mart Stores, Inc., 191 N.J. 88, 123 (2007)).]

Standing is conferred to a party that is in "either possession of the note or an assignment of the mortgage that predated the original complaint." Deutsche Bank Tr. Co. Ams. v. Angeles, 428 N.J. Super. 315, 318 (App. Div. 2012).

The motion judge, in finding plaintiff provided true copies of the note and assignment to the Office of Foreclosure, recognized plaintiff had to include "proofs as required by R[ule] 4:64-2" with its application for entry of judgment. See R. 4:64-1(d)(1). The "proofs" required to be produced under Rule 4:64-2(a) include the original mortgage, evidence of indebtedness, and assignments; or legible, certified true copies of those filed or recorded documents; or certified true copies of any unfiled documents. Any proofs required by Rule 4:64-1 "may be submitted by affidavit, unless the court otherwise requires." R. 4:64-2(a).

Among the documents submitted in support of plaintiff's motion for final judgment was the certification of Brent Marquis Watkins, a "Vice President Loan Documentation," who certified that plaintiff, directly or through an agent, had possession of the note. So too, plaintiff's counsel, in an affidavit required by Rule 4:64-2(d), attested Watkins informed her that he "personally reviewed the . . . original or true copy of the note, mortgage and recorded assignments . . . about to be submitted to the court" and he "confirmed the accuracy of those documents."

The motion judge's decision is supported by the record. Possession of the assignment or the note – or both – was sufficient to accord plaintiff standing to foreclose. Inasmuch as plaintiff had standing, we need not address the timeliness of defendants' challenge to standing.⁴ The balance of defendants' arguments are without sufficient merit to warrant discussion. R. 2:11-3(E)(1)(e). The final judgment was properly entered and defendants' motion properly denied.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION

⁴ We note defendants' answer raised plaintiff's lack of standing.