SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1089-16T2

JP MORGAN CHASE BANK, NATIONAL ASSOCIATION,

Plaintiff-Respondent,

v.

CHARLES SEWARD a/k/a CHARLES D. SEWARD, his heirs, devisees, and personal representatives and his/her, their, or any of their successors in right, title and interest, BOBBIE SEWARD, his wife, her heirs, devisees, and personal representatives and his/her, their, or any of their successors in right, title and interest,

Defendants-Appellants.

Submitted October 25, 2017 — Decided January 10, 2018

Before Judges Alvarez and Nugent.

On appeal from Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-000697-15.

Charles and Bobbie Seward, appellants pro se.

Parker Ibrahim & Berg LLC, attorneys for respondent (Melinda Colón Cox and Karena J. Straub, on the brief).

PER CURIAM

Defendants Charles and Bobbie Seward appeal from a November 3, 2016 final judgment of foreclosure, and from other orders denying their requests for relief on various interim applications. We affirm.

We briefly summarize the relevant procedural history and facts gleaned from the record. In 2002, defendants executed a note and purchase money mortgage in the principal amount of $126,022. The note was secured by a mortgage on defendants' home in Long Beach.

In 2004, the lender, Chase Manhattan Mortgage Corporation, merged with Chase Home Finance LLC. That entity merged with JP Morgan Chase Bank, National Association in 2011. The latter is the named plaintiff and is in possession of the original promissory note.

Defendants failed to make their mortgage payments in July 2004. A first mortgage complaint was filed, however, defendants, during the course of two bankruptcies that were ultimately dismissed, were able to modify the mortgage payment terms and then resumed making their mortgage payments. That complaint was dismissed.

In November 2008, however, defendants finally ceased making their mortgage payments. Defendants vacated the premises in October 2012.

On January 7, 2015, plaintiff filed the foreclosure complaint that resulted in the challenged judgment of foreclosure. Defendants filed an answer and counterclaim, seeking to dismiss the complaint on several grounds. After hearing argument, Judge Patricia Del Bueno Cleary on July 9, 2015, held, among other things, that plaintiff had standing, that the court had jurisdiction to decide the matter, and that plaintiff was not out of compliance with the Fair Foreclosure Act, N.J.S.A. 2A:50-53 to -68.

Thereafter, pursuant to Rule 4:6-2(e), Judge Del Bueno Cleary on August 21, 2015, found defendants had failed to state a claim and struck defendants' answer and affirmative defenses, and dismissed defendants' counterclaims. On October 23, 2015, she denied defendants' application for reinstatement of the answer and counterclaim, dismissal of the complaint, and cancellation of the mortgage and note.

On September 30, 2016, the judge denied defendants' objections to entry of the final judgment, and returned the case to the Office of Foreclosure. The final judgment followed shortly thereafter.

Defendants do not dispute that they have not made their mortgage payments since November 1, 2008. They assert instead that plaintiff lacks standing, is not properly in possession of the mortgage and note, is seeking maintenance charges in excess of those authorized by law, and similar claims. In fact, they raise seven points of error on appeal:

> I. THE TRIAL COURT COMMITTED A HARMFUL ERROR AND ABUSED ITS DISCRETION BY STRIKING THE APPELLANT'S CONTESTING ANSWER AND AFFIRMATIVE DEFENSES, AND DISMISSING THE COUNTERCLAIMS AGAINST THE RESPONDENT WITH SURMOUNTING EVIDENCE THAT THE RESPONDENT'S RECKLESS[] CONDUCT WAS THE PROXIMATE CAUSE OF THE APPELLANT'S INJURIES.
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> II. THE TRIAL COURT COMMITTED A HARMFUL ERROR AND ABUSED ITS DISCRETION BY STRIKING THE APPELLANT'S CONTESTING ANSWER AND AFFIRMATIVE DEFENSES, AND DISMISSING THE COUNTERCLAIMS AGAINST THE RESPONDENT PRIOR TO THE COMPLETION OF DISCOVERY.
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> III. THE TRIAL COURT COMMITTED A HARMFUL ERROR AND ABUSED ITS DISCRETION BY GRANTING FORECLOSURE AND FINAL JUDGMENT TO THE RESPONDENT WHO HAS YET TO DEMONSTRATE OWNERSHIP AND OR POSSESSION OF THE "MORTGAGE LOAN" IN DISPUTE PRIOR TO COMMENCING THE FORECLOSURE ACTION AT BAR.
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> IV. THE TRIAL COURT COMMITTED A HARMFUL ERROR AND ABUSED ITS DISCRETION BY ALLOWING THE FORECLOSURE COMPLAINT AT BAR TO PROCEED AFTER SIX YEARS FROM THE MATURITY DATE OF THE "MORTGAGE LOAN" IN DISPUTE BY ACCELERATION.
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> V. THE TRIAL COURT COMMITTED A HARMFUL ERROR AND ABUSED ITS DISCRETION BY ALLOWING THE RESPONDENT TO PROCEED WITH ITS FORECLOSURE

ACTION DESPITE THE RESPONDENT'S BREACH OF THE "MORTGAGE LOAN" BY FAILING TO FOLLOW 24 CFR §§ 203.604, 203.606.

VI. THE TRIAL COURT COMMITTED A HARMFUL ERROR AND ABUSED ITS DISCRETION BY IGNORING AND DISCREDITING EVIDENCE SUBMITTED BY THE APPELLANT'S DEMONSTRATING FALSE STATEMENTS MADE THE RESPONDENT THROUGH POWERS KIRN IN SUPPORT OF THEIR APPLICATION FOR ENTRY OF FINAL JUDGMENT.

VII. THE TRIAL COURT COMMITTED A HARMFUL ERROR AND ABUSED ITS DISCRETION BY IGNORING THE RESPONDENT'S WILLFUL VIOLATIONS OF CONSENT ORDERS AND SETTLEMENT AGREEMENTS ISSUED BY STATE AND FEDERAL AUTHORITIES, THE FRAUD UPON THE COURT AND UNCLEAN HANDS BY THE RESPONDENT, BERTONE PICCINI, AND POWERS KIRN.

We are convinced from our review of the record, and Judge Del Bueno Cleary's thorough and comprehensive analysis, that defendants' arguments lack sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). We make the following brief comments as to only two of the issues defendants raise in their points of error.

First, it is well-established that a six-year statute of limitation does not apply to mortgage foreclosure agreements. Sec. Nat'l Partners, L.P. v. Mahler, 336 N.J. Super. 101, 108 (App. Div. 2000).

Second, 24 C.F.R. §§ 203.604 and 203.606 are inapplicable. Section 203.604 requires a mortgagee to conduct a face-to-face meeting with mortgagors before the filing of a foreclosure action.

24 C.F.R. § 203.604(b). However, the obligation, if it exists at all in the manner suggested by defendants, is imposed only when the mortgaged property is occupied. 24 C.F.R. § 203.604(c)(1). Defendants vacated the residence some three years prior to the filing of the foreclosure complaint, so the regulation is inapplicable.

Section 203.606 requires that a mortgagee delay the filing of a foreclosure complaint until a mortgagor has missed three full payments, and the mortgagee has provided notice of default and notice of the intent to foreclose unless the default is cured. 24 C.F.R. § 203.606(a). If the mortgaged property has been vacant for more than sixty days, then the regulation does not apply. 24 C.F.R. § 203.606(b)(1). That was the case here, where defendants had vacated the premises years prior.

Additionally, those regulations, like the National Housing Act in general, 12 U.S.C. § 1701 to 1750g, does not create an independent cause of action for violation of statutory obligations. Heritage Bank, N.A. v. Ruh, 191 N.J. Super. 53, 66 (Ch. Div. 1983).

Affirmed.