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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-1689-16T1

EMIGRANT MORTGAGE COMPANY,
INC.,

Plaintiff-Respondent,

v.

MYCUTA AIS,

Defendant-Appellant,

and

MR. MYCUTA AIS, her husband,

Defendant.

Submitted February 27, 2018 – Decided March 16, 2018

Before Judges Reisner and Gilson.

On appeal from Superior Court of New Jersey,
Chancery Division, Essex County, Docket No.
F-001417-10.

Joseph A. Chang, attorney for appellant.

Knuckles Komosinski & Manfro LLP, attorneys
for respondent (John E. Brigandi, on the
brief).

PER CURIAM

Defendant Mycuta Ais appeals from a November 18, 2016 order, denying her motion to vacate a final foreclosure judgment in favor of plaintiff Emigrant Mortgage Company, Inc. We affirm.

In 2008, defendant borrowed approximately \$156,000, secured by a mortgage on her residential property. She defaulted on the loan in 2009. Plaintiff filed a foreclosure action, to which defendant did not file an answer. Plaintiff applied for entry of judgment by default, on notice to defendant. A final foreclosure judgment was entered on December 2, 2013.

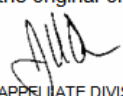
In 2015, defendant filed a motion to vacate the final judgment, claiming that she was not served with the foreclosure complaint. Judge Harriet F. Klein denied the motion, by order dated July 23, 2015. That order was appealable as of right, within forty-five days. R. 2:4-1(a). However, instead of filing a timely notice of appeal from Judge Klein's order, defendant waited a year and then filed essentially the same motion. In an oral opinion issued on November 18, 2016, Judge Thomas M. Moore denied the motion as untimely, barred by collateral estoppel, and substantively without merit.

On this appeal, defendant once again claims that service was defective. However, we conclude that her appeal is untimely. If defendant disagreed with Judge Klein's decision in 2015, she had the right to appeal the July 23, 2015 order to the Appellate

Division within forty-five days. R. 2:4-1(a). Defendant cannot revive her long-expired right to appeal from the July 23, 2015 order, by refileing the same motion in the trial court and then appealing from the denial of that motion. See In re Hill, 241 N.J. Super. 367, 371 (App. Div. 1990). However, even if we consider the service issue, it is without merit, for the reasons stated in Judge Moore's opinion.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION