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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-0882-21

HSBC BANK USA, NATIONAL  
ASSOCIATION, AS TRUSTEE  
FOR MERRILL LYNCH  
MORTGAGE INVESTORS,  
INC., MORTGAGE PASS-  
THROUGH CERTIFICATES,  
MANA SERIES 2007-OAR4,

Plaintiff-Respondent,

v.

JANE KOURAKOS, and  
WILLIAM KOURAKOS,  
a/k/a WILLIAM KORAKOS,

Defendants-Appellants,

and

PNC BANK, NATIONAL  
ASSOCIATION, f/k/a NATIONAL  
CITY BANK, CENTRAL  
LEASING CO OF NJ LLC,  
and CITY NATIONAL BANK OF  
NEW JERSEY,

Defendants.

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Submitted October 4, 2023 – Decided October 19, 2023

Before Judges Currier and Firko.

On appeal from the Superior Court of New Jersey,  
Chancery Division, Union County, Docket No.  
F-025437-18.

Jane Kourakos and William Kourakos, appellants pro  
se.

Duane Morris LLP, attorneys for respondent (Brett L.  
Messinger, of counsel and on the brief).

#### PER CURIAM

In this residential foreclosure action, defendants Jane and William Kourakos appeal from an October 8, 2021 order denying their cross-motion for summary judgment, granting plaintiff HSBC Bank USA, National Association's motion for final judgment, and remanding the matter to the Office of Foreclosure to proceed as an uncontested matter. We affirm substantially for the reasons expressed by Judge Robert J. Mega in his thorough statement of reasons.

On December 19, 2003, defendants executed a \$401,250 note secured by a mortgage to the original lender, IndyMac, F.S.B. This transaction was recorded on January 13, 2004. The mortgage was assigned to plaintiff, and the assignment of mortgage was duly recorded. Two modifications of the mortgage followed. In connection with the second mortgage modification, defendants

executed a confidential settlement and release agreement, which resulted in a prior foreclosure action against them being dismissed. On July 1, 2017, defendants defaulted on their loan payments under the second mortgage modification.

On December 28, 2018, plaintiff filed its foreclosure complaint, which is the subject of the matter under review, and defendants filed an answer. Plaintiff thereafter moved for summary judgment, and defendants also moved for summary judgment. Both motions were opposed. While the motions for summary judgment were pending, the parties engaged in settlement negotiations, and the terms of the settlement were placed on the record on January 10, 2020. A dispute thereafter arose as to whether or not a settlement had been achieved. Plaintiff then moved to enforce settlement and for sanctions for defendants' deliberate failure and refusal to complete and honor the settlement placed on the record. The judge found a settlement had been reached, but defendants refused to execute the necessary documents to effectuate the terms of the settlement. Therefore, the judge proceeded to decide the motions for summary judgment on the merits.

"The only material issues in a foreclosure proceeding are the validity of the mortgage, the amount of indebtedness, and the right of the mortgagee to

resort to the mortgaged premises." Great Falls Bank v. Pardo, 263 N.J. Super. 388, 394 (Ch. Div. 1993). The judge found that plaintiff met each of these requirements and entered final judgment in plaintiff's favor.

In so ruling, the judge examined all of the underlying documents and found they were properly executed and recorded. Plaintiff also established that defendants defaulted on the mortgage by failing to pay anything on the loan after July 1, 2017, or pursuant to the January 10, 2020 settlement.

On August 11, 2021, plaintiff moved for final judgment. Defendants opposed plaintiff's motion and cross-moved for summary judgment seeking to dismiss the complaint with prejudice alleging plaintiff lacked standing due to invalid loan documents and mortgage assignments, and claiming their financial obligations were discharged in their 2012 bankruptcy matter. Plaintiff opposed defendants' cross-motion on the grounds of res judicata, collateral estoppel, and law of the case.

Judge Mega found summary judgment had already been entered in favor of plaintiff and defendants presented no argument to explain why plaintiff was not entitled to entry of judgment. In addition, Judge Mega highlighted defendants had no answer pending at the time they filed their cross-motion for summary judgment, and the matter was returned to the Office of Foreclosure on

February 14, 2020 as an uncontested matter, and defendants never filed a motion for reconsideration of that order and did not file an appeal. The judge entered final judgment for plaintiff and denied defendants' cross-motion for summary judgment. This appeal followed.

On appeal, defendants argue the assignments are fraudulent, the loan was discharged in bankruptcy, there are multiple versions of the documents, and they were pressured to sign a consent order by plaintiff's counsel. We disagree.

Our review of a ruling on summary judgment is de novo, applying the same legal standard as the trial court. Townsend v. Pierre, 221 N.J. 36, 59 (2015). "Summary judgment must be granted if 'the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show . . . there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment . . . as a matter of law.'" Town of Kearny v. Brandt, 214 N.J. 76, 91 (2013) (quoting R. 4:46-2(c)).

Thus, we consider, as the judge did, whether "the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party." Ibid. (quoting Brill v. Guardian Life Ins. Co., 142 N.J. 520, 540 (1995)). We accord no deference to the judge's

conclusions on issues of law and review issues of law de novo. Nicholas v. Mynster, 213 N.J. 463, 478 (2013).

We have considered defendants' contentions in light of the record and applicable legal principles and conclude that they are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). We are satisfied that Judge Mega properly denied defendants' cross-motion for summary judgment for the reasons set forth in his comprehensive statement of reasons, and therefore, we discern no basis for disturbing the final judgment of foreclosure.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION