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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2342-21

STREET 13 LLC,

Plaintiff-Respondent,

v.

RICHARD ANGUEIRA,
a/k/a RICHARD ROMAN,

Defendant-Appellant.

Submitted March 1, 2023 – Decided March 27, 2023

Before Judges Mitterhoff and Fisher.

On appeal from the Superior Court of New Jersey,
Law Division, Atlantic County, Docket No. L-1309-
21.

Richard Angueira, appellant pro se.

James F. Crawford, PC, attorney for respondent
(James F. Crawford, on the brief).

PER CURIAM

Defendant Richard Angueira appeals two March 22, 2022 orders, which granted plaintiff both possession of the subject property and a writ of execution, pursuant to N.J.S.A. 4:59-2, and ordered defendant to vacate the property by April 15, 2022.¹ We affirm, substantially for the reasons set forth in Judge Stanley L. Bergman's well-reasoned written opinion.

This matter arises from an ejectment action under N.J.S.A. 2A:35-1, which followed the foreclosure of a mortgage on the subject property by Wilmington Savings Fund Society, FSB (Wilmington). The property was formerly owned by defendant's decedent, his mother Mary Roman. Defendant, as the administrator of his mother's estate, represented the estate in the foreclosure proceeding. On September 3, 2019, the chancery division entered an order granting summary judgment and a final judgment of foreclosure against Roman's estate (the 2019 judgment).²

After entry of the 2019 judgment, Wilmington scheduled the matter for a sheriff's sale. Defendant, in his capacity as administrator, sought and obtained

¹ By order dated April 26, 2022, we stayed the orders pending the outcome of this appeal.

² The circumstances leading to the 2019 judgment of foreclosure are set forth in our prior opinion and need not be repeated here. Wilmington Sav. Fund Soc'y v. Roman, No. A-2481-19 (App. Div. April 7, 2021) (slip op. at 1-3).

adjournments of the sale. By order dated January 9, 2020, the chancery court denied defendant's motion for a stay of the sale. The sheriff's sale was conducted on January 22, 2020, and plaintiff purchased the property and was issued a sheriff's deed the same day.³ On March 2, 2020, the deed naming plaintiff as the owner of the property was filed with the clerk of Atlantic County.

On April 22, 2021, plaintiff filed the within ejectment action in the Law Division. In this case, defendant is named individually as a resident of the property; he no longer represents the estate, which is not a party to the possession action. The complaint was dismissed without prejudice due to the pendency of defendant's appeal of the chancery court's denial of his motion to vacate the 2019 judgment pursuant to Rule 4:50.

On April 7, 2021, we reversed the denial and remanded for entry of an order both vacating the 2019 judgment and permitting defendant to file an answer. Following remand, on October 5, 2021, the chancery court granted summary judgment and a final judgment of foreclosure in favor of Christina

³ Plaintiff was not a party to the foreclosure proceeding.

Trust, as assignee of Wilmington (the 2021 judgment).⁴ Plaintiff then sought reinstatement of the complaint and summary possession of the property, which Judge Bergman granted in a March 22, 2022 order and written opinion.

On appeal, defendant argues that the trial court erred in granting possession and a writ of execution under these factual circumstances. He argues that our April 7, 2021 decision vacating the 2019 judgment operated to void the sheriff's sale by operation of law and, as a result, plaintiff cannot establish valid ownership of the property. We find defendant's argument lacks sufficient merit to warrant extended discussion in a written opinion. Rule 2:11-3(e)(1)(E). We add only the following remarks.

The chancery court has the power to set aside a mortgage foreclosure sale, "but its exercise, like all other judicial action, must always rest upon some consideration of justice." Crane v. Bielski, 15 N.J. 342, 346 (1954) (quoting Hayes v. Stiger, 29 N.J. Eq. 196 (Ch. 1878)). The invocation of this power must rest on an independent ground for equitable relief, "such as fraud, accident, surprise, irregularity in the sale, and the like, making confirmation inequitable and unjust to one or more of the parties." Ibid. (quoting Karel v.

⁴ On March 22, 2022, we denied defendant's motion to file a notice of appeal as within time from a November 19, 2021 denial of his motion to reconsider the October 5, 2021 order of summary judgment.

Davis, 122 N.J. Eq. 526 (E. & A. 1937)). This court reviews a trial court's decision declining to set aside a sheriff's sale under the abuse of discretion standard. See United States v. Scurry, 193 N.J. 492, 502 (2008).

Based upon our careful review of the record, we discern no abuse of discretion in the resolution of this matter. As Judge Bergman astutely observed, the sole "irregularity" in the sale was its timing vis-à-vis the entry of the 2019 foreclosure judgment, which was vacated. That irregularity was cured by the entry of the 2021 judgment. Defendant, as administrator of his mother's estate, has exhausted his appellate remedies to contest the foreclosure, and he failed to move to set aside the sale following remand, to the extent the application would have been successful. Now, he can not identify any legal or equitable basis for why the sale should be voided.

The judge also correctly noted that defendant failed to provide any competent evidence of prejudice to the estate stemming from the sale, while the harm to plaintiff as a bona fide third-party purchaser, who has paid all property taxes and insurance as the title owner since 2020, is immense. We are therefore satisfied that the judge's weighing of the equities demanded the rejection of defendant's arguments to the contrary.

Affirmed. The April 26, 2002 stay is hereby dissolved.

