

**NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION**

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-4283-18**

**JP MORGAN CHASE BANK,
NATIONAL ASSOCIATION,**

Plaintiff-Respondent,

v.

NICHOLAS E. PURPURA,

Defendant-Appellant,

and

**MRS. PURPURA, WIFE
OF NICHOLAS,**

Defendant.

Submitted April 25, 2022 – Decided May 25, 2022

Before Judges Rose and Marczyk.

On appeal from the Superior Court of New Jersey,
Chancery Division, Monmouth County, Docket No. F-
015246-18.

Nicholas E. Purpura, appellant pro se.

McCalla Raymer Leibert Pierce, LLC, attorneys for respondent (Brian P. Scibetta, on the brief).

PER CURIAM

In this residential foreclosure action, defendant Nicholas E. Purpura appeals pro se from an August 16, 2019 final judgment of foreclosure in favor of plaintiff JP Morgan Chase Bank, National Association (Chase), and the trial court's March 20, 2019 order granting Chase's summary judgment motion. Following our review of the record, applicable legal principles, and arguments of the parties, we affirm.

I.

Defendant executed an adjustable rate note in the amount of \$633,750 in favor of Washington Mutual Bank, F.A. (WaMu) on June 8, 2005, to purchase a home in Wall Township. On the same date, defendant granted a mortgage to WaMu to secure the loan. The mortgage was recorded in the Monmouth County Clerk's Office on July 1, 2005.

On September 25, 2008, the Federal Deposit Insurance Corporation (FDIC), as a receiver of Washington Mutual Bank f/k/a Washington Mutual Bank, F.A., entered into a purchase and assumption (P&A) agreement with Chase wherein Chase acquired certain assets of WaMu, including defendant's loan. Defendant and Chase entered into a loan modification agreement on

September 1, 2010. Defendant subsequently defaulted on his payment obligations by failing to make the October 1, 2016, payment and each payment thereafter. The FDIC assigned the mortgage to Chase via an assignment of mortgage on November 22, 2016, which was recorded in the Monmouth County Clerk's Office on December 7, 2016.

Chase filed a notice of intent to foreclose on May 10, 2018, and thereafter filed a foreclosure complaint on July 23, 2018. Both parties subsequently filed motions for summary judgment. On March 20, 2019, Judge Katie A. Gummer ultimately granted Chase's motion and denied defendant's motion. Defendant filed several motions challenging the summary judgment, which were denied by a different judge. The final judgment of foreclosure in favor of Chase was entered on August 16, 2019.

II.

While defendant's brief is not a model of clarity, it appears defendant essentially argues there was fraud surrounding the existence of multiple versions of the note and that Chase did not properly acquire defendant's loan pursuant to the P&A agreement, which demonstrates Chase's lack of standing to initiate the foreclosure action. Specifically, defendant avers there were multiple versions of the note which prompted the court to request further certifications regarding

the existence of a "bullseye" stamp on the upper right-hand corner of the first page of the note. Importantly, the trial court was satisfied the supplemental certifications, which asserted Chase affixed a stamp resembling a bullseye, constituted an "authenticity stamp" and that Chase possessed the original note without the bullseye stamp.

Chase counters it proved with competent evidence its entitlement to a foreclosure judgment by submitting the note and mortgage executed by defendant, proof of defendant's default, and evidence of the recordation of the mortgage at the summary judgment hearing. Chase contends defendant never denied signing the note and mortgage, nor that he defaulted on his payments under the loan as of October 1, 2016. Moreover, defendant never contested the mortgage was properly recorded. Chase further notes defendant has not come forward with any proof showing any entity – other than Chase – ever attempted to enforce an interest in the loan. Further, Chase alleges defendant voluntarily entered into a loan modification agreement in the amount of \$757,156.06 with Chase in September 2010, and never argued at the time that Chase had not acquired the loan through the P&A agreement with the FDIC.

III.

In our review of a grant of summary judgment, we apply the same legal standard as the motion judge. Townsend v. Pierre, 221 N.J. 36, 59 (2015). We must determine whether there is a "genuine issue as to any material fact" when the evidence is "viewed in the light most favorable to the non-moving party." Davis v. Brickman Landscaping, Ltd., 219 N.J. 395, 405-06 (2014) (first quoting R. 4:46-2(c); and then quoting Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 540 (1995)). The "trial court's interpretation of the law and the legal consequences that flow from established facts are not entitled to any special deference" and are reviewed de novo. Estate of Hanges v. Metro. Prop. & Cas. Ins. Co., 202 N.J. 369, 382-83 (2010).

In a mortgage foreclosure proceeding, the court must determine three issues: "the validity of the mortgage, the amount of the indebtedness" and default, and the right of the plaintiff to foreclose on the mortgaged property. Great Falls Bank v. Pardo, 263 N.J. Super. 388, 394 (Ch. Div. 1993), aff'd, 273 N.J. Super. 542 (App. Div. 1994). Standing to foreclose is established through "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) (citing Deutsche Bank Nat'l Tr. Co. v.

Mitchell, 422 N.J. Super. 214, 216 (App. Div. 2011)). A party initiating a foreclosure proceeding "must own or control the underlying debt" obligation at the time an action is initiated to demonstrate standing to foreclose on a mortgage. Mitchell, 422 N.J. Super. at 222 (quoting Wells Fargo Bank, N.A. v. Ford, 418 N.J. Super. 592, 597 (App. Div. 2011)). "[E]ither possession of the note or an assignment of the mortgage that predated the original complaint confer[s] standing." Angeles, 428 N.J. Super. at 318 (citing Mitchell, 422 N.J. Super. at 216, 225).

After analyzing the contentions of the parties, Judge Gummer rendered an oral decision:

There's no genuine issue of material fact as to plaintiff's standing. To establish standing to bring a foreclosure action, a plaintiff must show that it is either in possession of the note or was assigned the mortgage at the time it brought the complaint. Deutsche Bank v. Mitchell, 422 N.J. Super. 214, 225 (App. Div. 2011). In Deutsche Bank Trust Company Americas v. Angeles, 428 N.J. Super. 318, the Appellate Division stated that ["in Mitchell we held that either possession of the note or an assignment of the mortgage that predated the original complaint conferred standing[."]

Here, plaintiff has demonstrated that it both has possession of the note and had possession of the note before the filing of the complaint in this matter and has demonstrated the existence of an assignment of a mortgage.

There's no genuine dispute as to Chase having possession of the note. There's also no genuine dispute that in 2005 the mortgage at issue was recorded by the Monmouth County clerk and no dispute, no genuine dispute, that Mr. Purpura executed that mortgage. There also is no genuine dispute that an assignment of the mortgage was recorded in the Monmouth County Clerk's Office on December 7, 2016 in Book OR-9201, Page 5238.

In that assignment of mortgage, the FDIC, acting in its receivership capacity of Washington Mutual Bank, assigned defendant's mortgage, specifically the mortgage recorded by the Monmouth County clerk in Book OR-8474, Page 1399, to JPMorgan Chase Bank, National Association.

Accordingly, plaintiff has established that it has standing and has made out a prima facie case for foreclosure. Accordingly, the court is respectfully denying the defendant's motion and granting plaintiff's cross motion.

We are not persuaded by defendant's arguments regarding standing. The record belies that contention. Judge Gummer properly determined plaintiff provided extensive documentation regarding the transfer of the note and mortgage, and the other foundational requirements to prevail in a foreclosure action were clearly established.

After carefully reviewing the record and the arguments of the parties, we affirm substantially for the reasons expressed in Judge Gummer's oral decision. To the extent we have not specifically addressed any remaining contentions

raised by defendant, they lack sufficient merit to warrant discussion in this opinion. R. 2:11-3(e)(1)(E).

Affirmed.

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



CLERK OF THE APPELLATE DIVISION