

Affirmed and Opinion Filed April 3, 2018



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-17-00482-CV

**FEYSAL AYATI-GHAFFARI, Appellant
V.
JP MORGAN CHASE BANK, NATIONAL ASSOCIATION, Appellee**

**On Appeal from the 417th Judicial District Court
Collin County, Texas
Trial Court Cause No. 417-03108-2013**

MEMORANDUM OPINION
Before Justices Francis, Brown, and Stoddart
Opinion by Justice Francis

Feysal Ayati-Ghaffari, representing himself, sued JP Morgan Chase Bank, N.A. for breach of contract, DTPA violations, and trespass to try title in connection with the failed refinancing of a loan on a residential property. The Bank asserted counterclaims against Ghaffari seeking a declaratory judgment that a release of lien recorded by the Bank was the result of a mistake and seeking rescission of the release of lien.¹ The Bank filed separate motions for summary judgment on Ghaffari's affirmative claims and on its own counterclaims. The trial court granted both motions and (1) denied Ghaffari's claims with prejudice, (2) declared the release of lien was recorded as a result of a mistake, (3) ordered the release of lien rescinded, and (4) ordered Ghaffari

¹ The Bank also filed third-party claims against Ghaffari's wife, Irana Haghazari, and Rebecca Cucovatz, as trustee of Lone Grove Family Trust. After the failed refinancing, Ghaffari transferred the subject property into the Trust. Neither Haghazari nor Cucovatz appealed the trial court's judgment against them.

take nothing on the claims asserted in his complaint to quiet title to real property. Ghaffari, representing himself, appealed.

Ghaffari's brief fails to set out the facts of the case, explain the basis of his lawsuit, or clearly identify the particular ruling or rulings he is challenging and any basis for that challenge. The brief is, for the most part, difficult to understand. For example, he characterizes the case as a "toxic-foreclosure Falsified-Lender" case about bad faith. But this case does not involve a foreclosure.

Rather, the evidence shows Ghaffari sought to refinance a 2008 loan on residential property in Plano by obtaining a new loan. At the closing session on the loan, Ghaffari's wife, Haghazari, failed to sign one of the necessary documents, a notice of right to cancel. Based on the mistaken understanding that all documents had been signed, a release of lien was recorded in the Collin County records. Because Haghazari did not sign the document at closing and did not subsequently sign the document as requested by Chase, the 2013 loan was treated as a "did not close" loan, was not funded, and no Deed of Trust related to the 2013 loan was recorded. Because the 2013 loan was treated as "did not close," the 2008 note was not paid off and has been in default since April 1, 2013. A rescission of release of lien was filed in the Collin County records.

Under "Issues Presented," Ghaffari lists the following three issues, copied verbatim:

Issue 1: Judicial-Foreclosure requires to prove, the evidence does not support the Final Summary Judgment's answers to questions about violations of the DTPA, and questions about who is the old-lender, the amount and unknown-title company on what date JPMC became an approved-lender. (CR-206).

Issue 2: Standing (Law). Locus standi is the term for the ability of JPMC to deliver a copy of the consideration check to the old-lender at the title company's closing as a proof of "Something to lose" Doctrine, the 2/19/2103 Loan did not close/Not-Funded mean\$0. Loss which JPMC refused to come forward with copy of the consideration check to the non-existing old-lender. (CR-870).

Issue 3: Pro-Se Chase Manhattan Mortgage Corporation is in wholly default from inception in this no viable cause of foreclosure of 7/4/2013 Loan # 1304910843 action, Wrongly 2/28/2017 final summary judgment has been

rendered for 11/3/2008 Loan # 1962674884. (CR-344), By 12 times Recuse Judge Harold Gaither. (CR-850 & Not-Recorded other 11 filed Recusals, See attached Exhibit 12th filed on 5/31/2017).

Under the “Argument” portion of his brief, however, Ghaffari identifies what appears to be the first issue and then argues that his “legal and factual sufficiency challenges hangs [sic] on JPMC’s credibility of proof of Mortgage Note ownership (Judicial Foreclosure Law).” He asserts that for the Bank to be “credible,” it must come forward “with the copy of consideration check to the old lender” and, if not, this Court should reverse the summary judgment and conclude he holds “superior title.” For record support, he cites us to his “Complaint to Quiet Title to Real Property.” For legal authority, he cites a case for the proposition that the supreme court “has permitted the credibility of a party to be questioned on appeal when the party’s testimony is inconsistent and is contradicted by disinterested witnesses.”

Ghaffari’s brief fails to provide any reasoning or relevant law or record citations to show why the trial court erred by granting the Bank’s motions for summary judgment on Ghaffari’s affirmative claims and the Bank’s counterclaims. He fails to explain in any fashion how he is entitled to any relief in this case. To the extent he is complaining the trial court improperly granted summary judgment on his DTPA claim, he has not challenged the basis of that ruling—that he was not a consumer for purposes of the DTPA because the subject of this complaint was a refinance loan transaction. To the extent he argues credibility issues with evidence presented on summary judgment, he does not identify any evidence to support his claim, much less contradicting or conflicting evidence. The Bank presented evidence that MERS assigned the 2008 Deed of Trust to it and the assignment was recorded in the Collin County records. Ghaffari does not explain why this evidence is insufficient to give the Bank standing to seek rescission of a release of lien regarding that same 2008 Deed of Trust.

It is Ghaffari's burden to establish reversible error on appeal. *Meachum v. Comm'n for Lawyer Discipline*, 36 S.W.3d 612, 615 (Tex. App.—Dallas 2000, pet. denied). It is not this Court's burden to comb through the record and applicable law to determine whether error occurred. *See Amir-Sharif v. Hawkins*, 246 S.W.3d 267, 270 (Tex. App.—Dallas 2007, pet. disp'd w.o.j.). We conclude Ghaffari has not shown reversible error on appeal. *See* TEX. R. APP. P. 44.1.

We affirm the trial court's judgment.

/Molly Francis/
MOLLY FRANCIS
JUSTICE

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

FEYSAL AYATI-GHAFFARI, Appellant

No. 05-17-00482-CV V.

JP MORGAN CHASE BANK,
NATIONAL ASSOCIATION, Appellee

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Trial Court Cause No. 417-03108-2013.

Opinion delivered by Justice Francis;

Justices Brown and Stoddart participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

It is **ORDERED** that appellee JP MORGAN CHASE BANK, NATIONAL ASSOCIATION recover its costs of this appeal from appellant FEYSAL AYATI-GHAFFARI.

Judgment entered April 3, 2018.