

**NOT FOR PUBLICATION WITHOUT THE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-0029-21**

VALERIE SCHAEFER-JONES,

Plaintiff-Respondent,

v.

JAMES L. JONES,

Defendant,

Submitted May 10, 2022 – Decided May 20, 2022

Before Judges Fisher and Smith.

On appeal from the Superior Court of New Jersey,
Chancery Division, Family Part, Morris County,
Docket No. FM-14-0139-12.

Chiesa Shahinian & Giantomasi, PC, attorneys for
appellant Budd Lerner, PC (Thomas D. Baldwin and
Joseph Stimmel, on the brief).

Respondent has not filed a brief.

PER CURIAM

In this appeal, we consider whether the motion judge abused his discretion by denying a motion filed by a law firm, which represented plaintiff in a divorce action, that sought an order compelling a sale of the former marital home. We are satisfied the trial judge properly exercised his discretion in denying the motion and, therefore, affirm.

The record before us reveals that Budd Larner, P.C., represented plaintiff Valerie Schaefer-Jones in a divorce action she commenced against her husband, defendant James L. Jones. That matter ended in 2014 with the entry of a dual judgment of divorce. More than a year later, Budd Larner successfully moved to transform its attorney's lien into a \$26,238 money judgment against its former client.

Years later, Budd Larner moved in the trial court for an order compelling a sheriff's sale of the divorced couple's former marital home. In support of its March 2021 motion, Budd Larner referred to little more than the existence of the judgment of divorce and the fact that its former client obtained half the estimated \$640,000 of the net equity in the former marital home. That information was insufficient to support the relief requested, as the motion judge properly held.

First, the November 18, 2014 divorce judgment did not compel a transfer of title to the home to the client. It required instead that the divorced couple first attempt to agree on the home's value and, if they failed to agree by December 10, 2014, the court would appoint a designated appraiser to place a value on the property to which the parties would be bound. According to the divorce judgment, "[o]nce value has been established," Budd Larner's former client would have the right of first refusal to purchase the home. But, if she chose not to exercise that right, the property would be put on the market and sold, and the net proceeds divided by the parties in conformity with the judgment's terms.

While it is conceivable the client ended up the owner of the marital home through the process outlined in the November 2014 judgment, it ain't necessarily so. Indeed, Budd Larner's motion is silent about one essential fact: whether their former client is the owner of the property that Budd Larner would have ordered sold. Lacking this essential information, the motion judge had no choice but to deny relief. For all we know, the property may be owned by a complete stranger without notice of this proceeding.

Even if it could be assumed Budd Larner's former client is the current titleholder of the property or even if she used the proceeds of a sale of the former marital home to purchase some other real property, the motion still could not be

granted. By both statute and rule, execution on a judgment must start with a debtor's personalty before resorting to real property. See N.J.S.A. 2A:17-1; R. 4:59-1(d)(1); Raniere v. I & M Invst. Inc., 159 N.J. Super. 329 (Ch. Div. 1978), aff'd, 172 N.J. Super. 206 (App. Div. 1980). By failing to demonstrate their former client owned personalty that could be executed against, Budd Lerner was precluded from seeking a sale of any real property she may possess.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION