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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-2017-20

M&T BANK, s/b/m HUDSON
CITY SAVINGS BANK,

Plaintiff-Respondent,

v.

DYLAN HAAS,

Defendant-Appellant,

and

MRS. DYLAN HAAS, fictitious
spouse of DYLAN HAAS, and
UNITED STATES OF AMERICA,

Defendants.

Submitted February 15, 2022 – Decided May 9, 2022

Before Judges Fisher and Smith.

On appeal from the Superior Court of New Jersey,
Chancery Division, Morris County, Docket No.
F-005582-19.

Stratton Ashtyani, LLP, attorneys for appellant
(Nicholas A. Stratton, on the briefs).

Schiller, Knapp, Lefkowitz & Hertzell, LLP, attorneys
for respondent (Richard A. Gerbino, on the brief).

PER CURIAM

Defendant, Dylan Haas, appeals a decision denying his Rule 4:50-1 motion to vacate a final judgment of foreclosure entered against him. Based on our review of the record and applicable law, we are satisfied that there is sufficient evidence in the record to support denial of defendant's motion to vacate. Accordingly, we affirm substantially for the reasons set forth by the chancery judge in her thorough statement of reasons rendered on January 14, 2021.

We will not recite in detail the history of the foreclosure proceedings. Instead, we incorporate by reference the factual findings and legal conclusions contained in the judge's written decision. We add the following brief comments.

Default judgment was entered against defendant when he failed to file a timely answer to plaintiff's foreclosure complaint. Defendant claimed he was awaiting a response to the disability accommodations¹ letter he sent to the

¹ The record shows defendant states that he has been diagnosed a traumatic brain injury which causes an inability to keep time, difficulty sequencing actions and information, and difficulty following detailed instructions.

Hughes Justice Complex in Trenton. He moved to vacate the judgment, arguing the Chancery Division violated his ADA and NJLAD rights by ignoring his accommodations request. He also argued his neglect was excusable and that plaintiff, M&T Bank, lacked standing to foreclose.

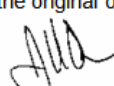
Our review of the court's factual findings is limited. Its decision is afforded substantial deference and should be left undisturbed unless it represents a clear abuse of discretion. U.S. Bank Nat'l Ass'n v. Guillaume, 209 N.J. 449, 467 (2012); Hous. Auth. of Morristown v. Little, 135 N.J. 274, 283 (1994).

Applying these principles, we conclude the Chancery Division's factual findings are fully supported by the record and, in light of those facts, its legal conclusions are unassailable. Failure to accommodate claims require notice to the public entity that accommodations were needed, so claimants must show the public entity had knowledge that the individual required accommodations. See Lasky v. Borough of Hightstown, 426 N.J. Super. 68, 76-77 (App. Div. 2012). Moreover, under Rule 4:50-1(a), a default judgment will not be disturbed unless the failure to answer or otherwise appear and defend was excusable under the circumstances and defendant has a meritorious defense. See Pressler & Verniero, Current N.J. Court Rules, cmt. 4.1 on R. 4:50-1 (2019).

The chancery judge properly concluded defendant's accommodation claims lacked merit. The court was never apprised of defendant's need for accommodation since he sent the letter to the Justice Complex in Trenton, not to the vicinage court or ADA coordinator. Even if defendant's failure to answer was excusable, he did not show a viable defense to the foreclosure action. M&T acquired defendant's note and mortgage through its merger with Hudson Bank, giving it standing to foreclose. On this record, we see no basis to disturb the Chancery Division's disposition of defendant's motion to vacate. Defendant's other claims were either not raised to the trial court² or lack sufficient merit to warrant discussion in a written 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

² The motion was denied under subsection (a) of R. 4:50-1. Defendant asserts, for the first time on appeal, that vacating the judgment was warranted under subsection (d). Subsection (d) permits the court to relieve a party from a final judgment if the judgment is void, and, according to defendant's theory, the original judgment is void because the court denied him due process by failing to provide accommodations. It is well-settled that appellate courts will decline to consider issues not properly presented to the trial court. See Nieder v. Royal Indem. Ins. Co., 62 N.J. 229, 234 (1973). In light of this rule, and noting our rejection of defendant's ADA and NJLAD claims, we decline to address this argument.