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Although it is posted on the internet, this opinion is only binding 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-0811-15T2

U.S. BANK, NATIONAL ASSOCIATION,
AS TRUSTEE UNDER THE POOLING AND
SERVICING AGREEMENT DATED AS OF
FEBRUARY 1, 2007, GSAMP TRUST
2007-NC1, MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-NC1,

Plaintiff-Respondent,

v.

OLIVE MONK,

Defendant-Appellant.

Submitted February 1, 2017 - Decided February 27, 2017

Before Judges Fuentes and Carroll.

On appeal from the Superior Court of New
Jersey, Chancery Division, Essex County,
Docket No. F-21002-12.

CLA Law International, PC, attorneys for
appellant (Chioma L. Anopueme, on the brief).

Duane Morris LLP, attorneys for respondent
(Brett L. Messinger, Brian J. Slipakoff and
Kelly K. Bogue, of counsel and on the brief).

PER CURIAM

In this foreclosure action it is undisputed that defendant Olive Monk defaulted on her mortgage as of October 1, 2009. Plaintiff, U.S. Bank, National Association, as Trustee under the Pooling and Servicing Agreement dated as of February 1, 2007, GSAMP Trust 2007-NC1, Mortgage Pass-Through Certificates, Series 2007-NC1, filed a foreclosure complaint on September 20, 2012. Defendant filed a contesting answer on August 13, 2013, asserting various affirmative defenses, including laches, estoppel, and unclean hands, and counterclaims alleging violations of the Truth-In-Lending Act (TILA), 15 U.S.C.A. §§ 1601 to 1667f, and the Consumer Fraud Act (CFA), N.J.S.A. 56:8-1 to -20. The parties subsequently cross-moved for summary judgment, and on September 8, 2014, the court granted plaintiff's motion, struck defendant's answer and defenses, and dismissed her counterclaims. The court entered final judgment for plaintiff on September 15, 2015.

In this appeal, defendant seeks to set aside the order granting summary judgment and final judgment in favor of plaintiff. Defendant argues, as she did before the trial court, that plaintiff failed to present competent evidence that it had an ownership interest in the note and mortgage to establish standing to foreclose. Defendant further argues that the trial court erred in striking her answer and defenses and dismissing her counterclaims.

Judge David B. Katz issued a comprehensive sixteen-page written opinion explaining his reasons for granting summary judgment. The judge noted that, in Deutsche Bank Trust Co. Ams. v. Angeles, 428 N.J. Super. 315, 318 (App. Div. 2012), we held that "either possession of the note or an assignment of the mortgage that predate[s] the original complaint confer[s] standing" to foreclose. Utilizing that standard, the judge concluded that plaintiff "established standing by having both possession of the original note prior to the filing of the action and also by way of pre-[c]omplaint [a]ssignment of [m]ortgage." The judge further found that the certification submitted in support of plaintiff's claim complied with Rule 1:6-6 and comported with the criteria for authentication we established in Wells Fargo Bank v. Ford, 418 N.J. Super. 592, 600 (App. Div. 2011).

Judge Katz rejected defendant's defense of unclean hands as "a conclusory statement unsupported by facts." The judge found the proffered defenses of equitable and estoppel equally unavailing, noting that "a generalized conclusory statement that [p]laintiff should have properly examined the loan documents does not amount to a sufficient showing of negligence on the part of [] [p]laintiff, or prejudice resulting from [] [p]laintiff's alleged failure to promptly exercise its rights."

Next, the judge dismissed plaintiff's TILA counterclaim as time-barred. Defendant executed the note and mortgage on November 3, 2006. Hence, she failed to bring her claim for damages within TILA's one-year limitations period, 15 U.S.C.A. §1640(e). Any claim for rescission of the mortgage loan was similarly barred by TILA's three-year statute of repose. 15 U.S.C.A. §1635(f). Additionally, the judge explained:

Even if [I] were to find [] [d]efendant's claim is not time-barred, [d]efendant fails to provide support for the contention that the TILA disclosure is facially deficient. Defendant also does not explain exactly how [p]laintiff took undue advantage of [d]efendant's lack of knowledge. Additionally, at closing on November 3, 2006, [d]efendant signed a Truth in Lending Disclosure Statement Thus, the TILA counterclaim is without basis and [is] dismissed.

Finally, Judge Katz dismissed defendant's CFA claim as barred by the six-year statute of limitations. N.J.S.A. 2A:14-1. Moreover, he found "[d]efendant's conclusory statements alleging a CFA violation are barebones allegations which are not set forth with any specificity" and accordingly did not warrant denial of plaintiff's summary judgment motion.

After reviewing defendant's arguments in light of the record and applicable legal principles, we affirm substantially for the reasons set forth in Judge Katz's thoughtful and well-reasoned

written decision. We conclude that Judge Katz's decision is fully supported by the record and that defendant's arguments require no further 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