

**NOT FOR PUBLICATION WITHOUT THE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-2257-15T1

KEARNY FEDERAL SAVINGS BANK,

Plaintiff-Respondent,

v.

DIANE ROBERTS, LLC; ROBERT
SCHROEDER; STATE OF NEW JERSEY;
FRANK GRASSO; and STEVEN L. WONG,

Defendants-Respondents.

GRACE S. WONG,

Appellant.

Submitted October 17, 2017 – Decided October 27, 2017

Before Judges Fisher and Fasciale.

On appeal from the Superior Court of New
Jersey, Chancery Division, Ocean County,
Docket No. F-026028-12.

Grace S. Wong, appellant pro se.

Respondents have not filed briefs.

PER CURIAM

This foreclosure action was commenced in 2012. In its complaint, plaintiff Kearny Federal Savings Bank alleged that defendant Roberts LLC defaulted on a note for the repayment of \$950,000; Kearny asserted its right, via a mortgage recorded in 2009, to foreclose on Roberts' Toms River property. The complaint also named as a defendant Steven L. Wong, alleging he, as well as other defendants, may have possessed subordinate interests on the property.

During the course of the trial court proceedings, appellant Grace S. Wong asserts that she received an assignment from Steven L. Wong of the rights he possessed by way of a mortgage recorded in his favor on the property in 2011. Her assignment was allegedly recorded in 2013. Grace seeks to vindicate her alleged rights by way of this appeal. Because the trial court's disposition of Grace's assertions was, at best, unclear, we vacate the orders in question and remand for further proceedings.

In explaining the grounds for our decision, we first observe that the record on appeal may not contain all that is relevant to Grace's arguments. The record, for example, contains a motion filed by Kearny for entry of a final judgment of foreclosure but does not contain a copy of any final judgment that may have been entered. The record also includes an assignment of Kearny's rights

to another junior lienholder, Frank Grasso. And neither Kearny nor Grasso have appeared in this appeal.

We discern from what has been presented that Grace argues Steven's interests – to which she claims to have acceded – had priority over Kearny's, to which Frank Grasso acceded. She also argues that the trial court made rulings in derogation of an applicable bankruptcy stay. In making these arguments, Grace specifically seeks our review of a January 8, 2016 trial court order that denied her motion to amend a November 20, 2015 order, which denied a motion to reconsider. To examine the validity of these orders we must go back even further in the record.

The judge we will refer to as the third judge,¹ who entered the January 8, 2016 order, explained only – in a statement appearing within the body of the order – that Grace's application was denied with prejudice because it was "essentially [seeking] reconsider[ation]" of the second judge's September 18, 2015 order.

The second judge explained his ruling in a cogent written opinion. From that opinion, we learn that Grace successfully moved

¹ Because of the confusing procedural history and the involvement of at least three judges in this case, we will refer to the judge who entered the order under review as "the third judge." The third judge, as we have observed, entered the order in reliance on another judge's September 18, 2015 order and decision; we refer to that judge as "the second judge." And in his ruling, the second judge referred to the rulings of an earlier judge, who we will refer to as "the first judge."

to intervene in 2013 but did not file an answer as required by a September 12, 2013 order, which was entered by the first judge. Soon after the September 12, 2013 order, the first judge denied another request by Grace to intervene; the first judge so ruled because defendant Roberts LLC was involved in bankruptcy proceedings. The first judge's order stated that "[i]n the event the [b]ankruptcy stay is lifted" this litigation "may proceed" and Grace "may refile the motion to intervene."

The second judge's September 18, 2015 written opinion recognizes there were two motions before him – one by Frank Grasso to be substituted for Kearny and the other by Grace to intervene. The former was granted because the only opposition, which came from Grace, was found irrelevant because, according to the second judge, she did not have standing to complain of the substitution. The latter was denied because the second judge found that Grace did "not provide[] sufficient evidence that intervention is necessary at this time." The order then entered, however, refers only to Frank Grasso's motion to substitute for Kearny; the order provides no disposition of Grace's motion.

Coming full circle, the third judge's order denying intervention – that which is before us – relies on the second judge's reasoning for denying Grace's earlier motion to intervene. In fact, the second judge only determined, for reasons that elude

us, that intervention was not "necessary at th[at] time," and no order was entered one way or the other.

Based only on what is before us, we reverse the January 8, 2016 order under review² and remand for further proceedings regarding Grace's attempts to intervene. Whatever form the remand proceedings take, the trial court should offer the interested parties an opportunity to fully assert their positions regarding Grace's attempts to intervene and provide a thorough explanation for the court's disposition of that question.

Reversed and remanded. We do not retain jurisdiction.

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 record on appeal also contains a March 30, 2016 order that appears nearly identical to the January 8, 2016 order. Because the former was entered after this appeal was filed, the trial court lacked jurisdiction to enter it, R. 2:9-1(a); the March 30 order is hereby vacated for that reason. For what it's worth, the March 30 order adds nothing to our understanding of this matter or the reasons for the court's repeated denial of Grace's attempts to intervene.