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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-3184-15T1

AURORA LOAN SERVICES, LLC,

Plaintiff-Respondent,

v.

PEDRO L. PEREZ, his heirs, devisees and personal representatives and his successors in right, title and interest, MRS. PEREZ, wife of PEDRO L. PEREZ, her heirs, devisees, and personal representatives,

Defendants-Appellants,

and

CITIBANK and FEDERAL SAVINGS BANK,

Defendants.

Submitted June 6, 2017 – Decided June 23, 2017

Before Judges Fisher and Vernoia.

On appeal from the Superior Court of New Jersey, Chancery Division, Bergen County, Docket No. F-4032-10.

Pedro L. Perez, appellant pro se.

Powers Kirn, LLC, attorneys for respondent (Michael B. McNeil, on the brief).

PER CURIAM

Defendant Pedro L. Perez appeals a June 12, 2015 order denying his motion to vacate a final judgment and invalidate a sheriff's deed, and an August 7, 2015 order denying his motion for reconsideration. We affirm.

On September 10, 2004, defendant purchased property located at 425 Greenwich Street in Bergenfield. He obtained financing for the purchase from Ark Mortgage, Inc., and executed a note in Ark's favor that was secured by a mortgage from defendant to Mortgage Electronic Registration Systems, Inc., as Ark's nominee. Ark assigned the mortgage to plaintiff Aurora Loan Services, LLC on January 4, 2010, and the assignment was recorded in January 2010.

Defendant defaulted under the note and mortgage by failing to make a August 1, 2009 payment, and all subsequent payments. Plaintiff forwarded to defendant a notice of intent to foreclose in September 2009, and filed a foreclosure action on January 13, 2010. After defendant failed to respond to the complaint, default was entered on April 6, 2010, and a final judgment and writ of execution were entered on January 11, 2012. Plaintiff purchased the property at a sheriff's sale and received a sheriff's deed that was recorded on September 11, 2012.

On April 22, 2015, defendant first appeared in the matter, filing a motion to vacate the final judgment and void the sheriff's

deed. Defendant argued he was entitled to the relief because he was never served with the complaint. The court denied defendant's motion in a detailed written decision finding the request to vacate the sheriff's deed was untimely under Rule 4:65-5, and that the affidavit of service showed the complaint and summons were served in 2010 in accordance with Rule 4:4-4(a)(1). The court determined defendant failed to present clear and convincing evidence rebutting the presumption of service which arose based on the sworn affidavit of service, Garley v. Waddington, 177 N.J. Super. 173, 180-81 (App. Div. 1981), and entered a June 12, 2015 order denying defendant's motion.

Defendant filed a motion for reconsideration arguing plaintiff did not have standing to bring the foreclosure action. In another detailed written opinion, the court rejected defendant's argument, noting he failed to demonstrate that the court's June 12, 2015 order was based on a palpably incorrect or irrational basis or that the court failed to consider or appreciate probative or competent evidence. See R. 4:49-2; In re Estate of Brown, 448 N.J. Super. 252, 268 (App. Div. 2017). The court also found plaintiff had standing because it received and filed an assignment of the mortgage prior to the filing of the complaint. See Deutsche Bank Trust Co. Ams. v. Angeles, 428 N.J. Super. 315,

318 (App. Div. 2012). The court entered an August 7, 2015 order denying defendant's motion.

On appeal, defendant argues only that the court erred in entering the orders because the evidence showed "a deviation from the service of process rules," and that he otherwise presented clear and convincing evidence rebutting the presumption of proper service that arose from the affidavit of service showing service of the summons and complaint in 2010.

We find insufficient merit in defendant's contentions to warrant a discussion in a written opinion, R. 2:11-3(e)(1)(E), and affirm substantially for the reasons in Judge Menelaos W. Toskos's well-reasoned June 12, 2015 and August 7, 2015 written decisions.

Affirmed.

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

CLERK OF THE APPELLATE DIVISION