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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-4365-15T1

WELLS FARGO BANK, NA,

Plaintiff-Respondent,

v.

CECILLE E. JARRETT,

Defendant-Appellant,

and

MR. JARRETT, husband of CECILLE
E. JARRETT and PNC BANK, NA,

Defendants.

Submitted September 13, 2017 – Decided September 29, 2017

Before Judges Koblitz and Manahan.

On appeal from Superior Court of New Jersey,
Chancery Division, Ocean County, Docket No.
F-044018-14.

Cecille E. Jarrett, appellant pro se.

Reed Smith, LLP, attorneys for respondent
(Henry F. Reichner, of counsel and on the
brief).

PER CURIAM

Defendant Cecille E. Jarrett appeals from an April 29, 2016 final judgment of foreclosure entered after a bench trial. Defendant argues, as she did at trial, that she paid off the note and the mortgage was therefore satisfied. The trial judge found to the contrary, determining her testimony was not credible. Because the judge based his findings on adequate competent and credible evidence, we affirm.

In April 2005, defendant signed a note evidencing a \$159,645 loan from plaintiff's predecessor,¹ secured by a non-purchase money mortgage on defendant's home. She defaulted on that loan in February 2013, resulting in the filing of this complaint in October 2014.

Seven years prior to defaulting, and one year after her initial 2005 loan, defendant took out another mortgage loan in October 2006 in the amount of \$101,000 also from Wells Fargo. She subsequently obtained a \$150,000 home equity loan from another lender in May 2008, paying off the 2006 mortgage of \$101,000 to Wells Fargo at that time.

Defendant testified she paid off the initial 2005 loan with the proceeds of the 2006 loan, but in spite of a thirty-day extension of discovery at her request, defendant introduced no

¹ The loan originated with Wachovia, which merged with plaintiff Wells Fargo, N.A., in 2010. We will refer to the lender as Wells Fargo throughout this opinion.

documents to substantiate this claim. Plaintiff presented a Wells Fargo vice president of loan documentation from Des Moines, Iowa, who testified based on the bank's business records to the sequence of events. Plaintiff also introduced into evidence the original note.


Based on Wells Fargo's vice president's credible and detailed sworn testimony and documents, the trial judge found that defendant had never paid off the 2005 loan for \$159,645. The judge found plaintiff had possession of the note prior to filing the complaint, affording standing to foreclose, and that defendant did not default on the mortgage until 2013, years after she claimed the mortgage had been satisfied. She thus continued to make mortgage payments to Wells Fargo long after her 2008 loan from another lender.

When deciding an appeal from a bench trial, we evaluate whether the findings made are "supported by adequate, substantial and credible evidence." Rova Farms Resort, Inc. v. Investors Ins. Co. of Am., 65 N.J. 474, 484 (1974). We give "due regard" to the ability of the factfinder to judge credibility. D'Amato by McPherson v. D'Amato, 305 N.J. Super. 109, 115 (App. Div. 1997); See N.J. Div. of Youth & Family Servs. v. E.P., 196 N.J. 88, 104 (2008) (noting that we should give deference to the factual findings of the trial court "because it ha[d] the opportunity to make first-hand credibility judgments" as well as a "'feel of the

case' that can never be realized by a review of the cold record.") (quoting N.J. Div. of Youth & Family Servs. v. M.M., 189 N.J. 261, 293 (2007)). The trial judge made credibility findings and based his decision on substantial credible evidence. We therefore affirm.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION