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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-4568-15T1

JUDITH FERRARIS,

Plaintiff-Appellant,

v.

JEFFREY SCOTT JONES,

Defendant-Respondent.

Submitted August 15, 2017 – Decided August 22, 2017

Before Judges Manahan and Gilson.

On appeal from Superior Court of New Jersey,
Law Division, Special Civil Part, Hudson
County, Docket No. DC-397-16.

Scott C. Buerkle, attorney for appellant.

Respondent has not filed a brief.

PER CURIAM

Plaintiff Judith Ferraris appeals from the order of the Law Division dismissing her complaint with prejudice against defendant Jeffrey Jones following a non-jury trial. After reviewing the record developed before the trial court and in consideration of our standard of review, we affirm.

Ferraris filed a complaint in the Hudson County Special Civil Part alleging that Jones owed her approximately \$26,000, but she would "accept \$15,000." Jones filed an answer. A one-day bench trial was conducted before a Law Division judge.

After the conclusion of the testimony, the judge dismissed the complaint in a decision rendered from the bench. In reaching the decision, the judge found Jones's testimony to be more credible. The judge also found that the spreadsheets and self-notarized documents offered by Ferraris as proofs in support of her claim were insufficient to sustain her burden of persuasion. On the same day, the judge entered an order in favor of Jones dismissing Ferraris's complaint with prejudice.

Ferraris filed a motion for a new trial, which was denied. The judge supplemented the denial of the motion for a new trial with a statement of reasons.¹ This appeal followed. On appeal, Jones failed to file a timely brief.

We take the following from the trial record. Ferraris and Jones's initial relationship was a friendship, which resulted in marriage, then reverted to a friendship. Ferraris claimed that Jones owed her money on loans disbursed on various dates totaling

¹ The judge's oral opinion rendered after trial was somewhat truncated. The judge issued a written opinion on the motion for a new trial stating the findings of fact and conclusions of law supplementing her oral decision.

\$26,560. During trial, Ferraris presented promissory notes for three individual loans and a promissory note dated March 31, 2008, which was intended to supersede the earlier notes. The March promissory note included a clause that it would bear an interest rate of four percent compounded monthly and a clause that the note would bear an eighteen percent interest per annum.

Ferraris testified she was repaid approximately \$5000 on the March note. In support of her claim, Ferraris proffered an Excel spreadsheet that listed the balance and payments she received from Jones and a bank statement showing two cash deposits in 2012.

Although s signature appears on all of the promissory notes, he disputed the validity of his signature on two of the notes. Jones testified that he only signed two notes totaling \$12,000. Jones further testified that the debt was paid off through installment payments totaling \$10,800 and after he paid for a cruise ticket for Ferraris totaling \$1000. Jones testified that he lacked proof of his payments as he no longer maintained the bank account associated with the payments. In reply, Ferraris denied that payment toward the cruise operated as an offset for the debt.

In reference to the remaining two promissory notes, Jones testified that the signatures on the notes were likely forged by Ferraris. Jones further testified that Ferraris forged his

signature with his permission during their marriage and that she likely forged his signature on the two notes due to her being upset that Jones caused her to become "uninvited to a party."

Ferraris raises the following arguments on appeal:

POINT I

THE TRIAL COURT'S DECISION WAS [UNSUPPORTED] AND INCONSISTENT WITH THE COMPETENT, RELEVANT AND REASONABLY CREDIBLE EVIDENCE.

POINT II

THE TRIAL COURT'S MANY PROCEDURAL ERRORS REQUIRE THIS COURT TO VACATE THE JUDGMENT AND REMAND FOR A NEW TRIAL. (NOT RAISED BELOW)

A. The Trial Court Failed To Adequately Identify Documents For The Record And Formerly Accept Them Into Evidence To Be Preserved Pending Appeal.

B. The Trial Court Failed To Provide The [Plaintiff] The Opportunity To Examine The Evidence Submitted To The Court By Her Adversary.

C. The Trial Court Failed To Make Sufficient Findings Of Fact To Support The Court's Decision.

POINT III

THE TRIAL COURT COMMITTED PLAIN ERROR BY PERMITTING DEFENDANT'S TESTIMONY FOR WHICH HE HAD NO PERSONAL KNOWLEDGE AND THAT AMOUNT TO RANK HEARSAY. (NOT RAISED BELOW)

The standard of review of judgments or orders entered after bench trials is well settled. The findings of the trial judge are

binding on appeal if they are supported by "adequate, substantial and credible evidence." Rova Farms Resort, Inc. v. Inv'rs Ins. Co. Of Am., 65 N.J. 474, 484 (1974). Deference to the judge's factual findings is appropriate because the judge who saw and heard the witnesses testify "has a better perspective than a reviewing court in evaluating the veracity of witnesses." Seidman v. Clifton Sav. Bank, S.L.A., 205 N.J. 150, 169 (2011) (quoting Cesare v. Cesare, 154 N.J. 394, 412 (1998)). Nevertheless, we review a "trial court's interpretation of the law and the legal consequences that flow from established facts" de novo. Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995).

In denying Ferraris's motion for a new trial, the judge found:

Although [d]efendant failed to present the [c]ourt with competent evidence, [p]laintiff, as the moving party, held the burden of demonstrating that [d]efendant failed to pay the alleged debt. In this regard, [p]laintiff failed to do so.

At trial, the [c]ourt did not accept that promissory notes proffered by [p]laintiff as legitimate or valid. Plaintiff produced four promissory notes bearing [d]efendant's signature. Defendant acknowledged two of them (memorializing an alleged debt of \$12,000[]) and claimed the other two were fraudulent (memorializing an alleged debt of \$14,000[]). Defendant offered testimony that he had authorized [p]laintiff to sign various documents during the course of their marriage. Plaintiff did not rebut this testimony. Furthermore, aside from the signature, the promissory notes contain a notarization, which

was performed by [p]laintiff herself. As such, even now, the [c]ourt [plainly] cannot accept a self-serving notarization as sufficient evidence to carry [p]laintiff's burden of production as to the existence of the additional \$14,000[] debt.

Even assuming, arguendo, that the additional debt exists/existed, the [c]ourt cannot draw any sound conclusions as to payment. The only evidence proffered by [p]laintiff regarding payment (or non-payment) are self-prepared Microsoft Excel spreadsheets, purporting to account for the loans. The [c]ourt cannot reasonably determine whether these spreadsheets are true accountings of a legitimate loan debt or if they were fraudulently prepared the night before the hearing. Further, out of a total of [fourteen] payments listed on the spreadsheet, [p]laintiff has provided bank statements that allegedly correspond to only two of them. Plaintiff offered no additional evidence to support the bank deposits as payment aside from the entries in the Excel spreadsheet.

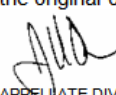
Predicated upon our review of the judge's oral opinion post-trial and her written opinion on the motion for a new trial, we are satisfied that the judge exercised independent judgment in reaching her decision. The judge evaluated each allegation asserted by Ferraris and resolved them by making credibility determinations as well as determinations relating to Ferraris's proofs. Given the above, we discern no basis for error.

We next address Ferraris's second and third points, not raised below, wherein she argues the judge made erroneous evidentiary

rulings. "[A] trial court's evidentiary rulings are 'entitled to deference absent a showing of an abuse of discretion, i.e., there has been a clear error of judgement.'" State v. Brown, 170 N.J. 138, 147 (2000) (quoting State v. Marrero, 148 N.J. 469, 484 (1997)). As such, "an appellate court should not substitute its own judgment for that of the trial court, unless the trial court's ruling was so wide of the mark that a manifest denial of justice resulted." Ibid. (internal quotation marks omitted) (quoting Marrero, supra, 148 N.J. at 484). Here, the record does not demonstrate that the evidentiary rulings were so wide of the mark that it resulted in a manifest denial of justice.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION