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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-5708-14T2

WELLS FARGO BANK, NATIONAL  
ASSOCIATION, AS TRUSTEE FOR  
CARRINGTON MORTGAGE LOAN TRUST  
SERIES 2006-FR1 ASSET-BACKED  
PASS-THROUGH CERTIFICATES,

Plaintiff-Respondent,

v.

RODNEY KELLY,

Defendant-Appellant,

and

MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC., Solely as Nominee  
for FGC Commercial Mortgage  
Finance, d/b/a Fremont Mortgage,  
its Successors and/or Assigns;  
NEW JERSEY HOUSING AND MORTGAGE  
FINANCE AGENCY, as Authorized  
Administrative Agent of the New  
Jersey Department of Community  
Affairs; Fictitious Spouse of  
Rodney Kelly,

Defendants.

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Submitted June 8, 2017 - Decided July 14, 2017

Before Judges Lihotz, Hoffman and O'Connor.

On appeal from Superior Court of New Jersey,  
Chancery Division, Burlington County, Docket  
No. F-15290-12.

Rodney Kelly, appellant pro se.

Udren Law Offices, P.C., attorneys for  
respondent (J. Eric Kishbaugh, on the brief).

PER CURIAM

In this contested foreclosure action, defendant Rodney Kelly appeals from the denial of a motion for reconsideration of the final judgment foreclosing his interest in residential real property, located in Willingboro, and granting plaintiff Wells Fargo Bank, N.A., the right to sell the realty to satisfy the outstanding loan owed by defendant. On appeal, defendant identifies nine errors, arguing the trial judge abused her discretion in granting summary judgment, final judgment, and ordering sheriff's sale of the realty. We affirm.

The trial court granted summary judgment in favor of plaintiff on January 2, 2014. Final judgment of foreclosure was entered and a writ of execution issued on February 26, 2015.<sup>1</sup> Almost three months later, defendant moved to dismiss the foreclosure action entirely and sought frivolous litigation sanctions, which the

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<sup>1</sup> Although these documents are not included in the record on appeal, these facts are not disputed.

trial judge considered as a motion for reconsideration of the final judgment. In a written statement of reasons, Judge Karen L. Suter reviewed defendant's challenges, which she denied. She filed an order memorializing the denial of defendant's motions on July 20, 2015. Thereafter, plaintiff purchased the property at sheriff's sale on July 30, 2015.

The appeal timely challenges the July 20, 2015 order. However, in his merits brief, defendant includes attacks on the order granting summary judgment, which led to entry of the final judgment of foreclosure. We recognize a challenge on reconsideration may argue the legal sufficiency of an underlying order. R. 4:49-2. However, here, summary judgment was granted "for the reasons placed on the record on January 2, 2014," yet a transcript of the proceeding is not provided, thus, precluding our review. Cipala v. Lincoln Tech. Inst., 179 N.J. 45, 55 (2004) (declining review because plaintiff failed to provide transcripts of proceedings); Soc'y Hill Condo. Ass'n v. Soc'y Hill Assocs., 347 N.J. Super. 163, 177 (App. Div. 2002) ("A party on appeal is obliged to provide the court with 'such other parts of the record . . . as are essential to the proper considerations of the issues.' R. 2:6-1(a)(1)(H)").

More important, appeal from the final judgment of foreclosure was not filed. Rule 2:4-1 mandates appeals from final judgments

must be filed within forty-five days "of their entry." The time limit is tolled by "the timely filing and service of a motion to the trial court . . . for rehearing or reconsideration seeking to alter or amend the judgment or order pursuant to R. 4:49-2." R. 2:4-3(e) (emphasis added). "The remaining time shall again begin to run from the date of the entry of an order disposing of such a motion." Ibid.

Unfortunately, when defendant filed his post-judgment motions almost ninety days following entry, the time for appeal had long expired. "[A]n untimely motion to reconsider does not[]" toll the time limits of Rule 2:4-1. Eastampton Ctr., LLC v. Planning Bd. of Eastampton, 354 N.J. Super. 171, 187 (App. Div. 2002). Stated differently, defendant's appeal from the order denying reconsideration cannot bootstrap challenges to the underlying order for summary judgment he desires to reconsider.

Nevertheless, for completeness, we have considered the merits, which we find unavailing. We have reviewed defendant's motions asserting final judgment must be vacated because of fraud, plaintiff's violations of the Truth in Lending Act, 15 U.S.C.A. § 1601, and plaintiff's lack of standing. We also reviewed defendant's motion seeking sanctions because plaintiff pursued frivolous litigation. Our review of the record reveals the issues

were hotly contested and sufficiently litigated, prior to the review of plaintiff's motion for summary judgment.

We also considered Judge Suter's findings of fact and conclusions of law, delineated in her July 20, 2015 statement of reasons accompanying the order under review. We determine her findings are amply supported and her conclusions are legally sound.

Motions for reconsideration are granted only under very narrow circumstances:

Reconsideration should be used only for those cases which fall into that narrow corridor in which either (1) the Court has expressed its decision based upon a palpably incorrect or irrational basis, or (2) it is obvious that the Court either did not consider, or failed to appreciate the significance of probative, competent evidence. D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990).


[Fusco v. Bd. of Educ. of City of Newark, 349 N.J. Super. 455, 462 (App. Div. 2002).]

We discern no error. Summary judgment was grounded on undisputed facts in the record conclusively establishing plaintiff's ownership of the debt and possession of the note and mortgage documents. The claims of fraud and forgery are bald allegations unsupported by direct or even circumstantial evidential proof. Overall, defendant does not demonstrate the orders were not rationally based upon competent evidence. Finally,

defendant's arguments fail to persuade this court reconsideration was legally unsound.

Affirmed.

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

  
CLERK OF THE APPELLATE DIVISION