SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0010-16T3

U.S. BANK, NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR THE RMAC TRUST, SERIES 2012-5T,

Plaintiff-Respondent,

v.

WILLIAM M. NIELSON and JEAN M. NIELSON, husband and wife,

Defendants-Appellants.

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Submitted December 13, 2017 – Decided January 25, 2018

Before Judges Alvarez and Geiger.

On appeal from Superior Court of New Jersey, Chancery Division, Camden County, Docket No. F-029097-12.

William M. Nielson, appellant pro se.

Pluese, Becker, & Saltzman, LLC, attorneys for respondent (Stuart H. West, on the brief).

PER CURIAM

On July 8, 2016, a Chancery judge denied defendant William M. Nielson's motion. Defendant's home in Atco, subject to mortgage foreclosure proceedings in which judgment entered by default, had been sold at a sheriff's sale by deed recorded April 15, 2016.

We affirm the July 8 order denying Nielson's application to vacate the prior proceedings for two reasons; first, defendant's contentions in support of his application are not based in law or fact. Second, they are untimely. We deem defendant's arguments on appeal to lack sufficient merit to warrant discussion. See Rule 2:11-3(e)(1)(E).

The sheriff's sale took place some thirteen months after the March 6, 2015 final judgment in foreclosure. Defendant did not file his motion until one month after that. He now raises the following points:

> A. THE CHANCERY COURT ERRED AS A MATTER OF LAW BY ALLOWING A COMPLAINT VERIFIED ONLY UNDER THE PLAIN[TIFF'S] ATTORNEY WITHOUT A COMPETENT WITNESS; THE DEFAULT JUDGMENT WAS ENTERED WITHOUT PROPER VERIFICATION.
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> B. THE CHANCERY COURT ERRED AS A MATTER OF LAW IN GRANTING ANY JUDGMENT ON THE DEFECTIVE COMPLAINT WHERE THE PLAINTIFF FAILED TO VERIFY OR SET FORTH THE CHAIN OF TITLE AS TO THE "DEBT INSTRUMENT" UNDER RULE OF PROCEDURE [4:64-1](b)(6).
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> C. NEGOTIABLE INSTRUMENTS ARE GOVERNED UNDER UCC PRINCIPLES ALIEN TO CHANCERY COURT AND CANNOT APPEAR AS MORTGAGE FORECLOSURE

CLAIMS WHICH PROCEED IN EQUITY; CHANCERY COURT LACKED JURISDICTION FROM THE BEGINNING.

D. THE CHANCERY COURT ERRED AS A MATTER OF LAW BY ALLOWING A JUDGMENT BASED ON THE EXPANSION OF FICTITIOUS BANK-ACCOUNT ENTRIES IN VIOLATION OF THE SUPREMACY CLAUSE UNITED STATES CONSTITUTION. WHICH REQUIRES ADHERENCE TO ARTICLE 1 SECTION 10 THEREIN "NO STATE SHALL MAKE ANYTHING BUT GOLD OR SILVER (LEGAL) TENDER FOR PAYMENT OF DEBTS".

E. THE CHANCERY COURT ERRED AS A MATTER OF LAW BY REFUSING TO SET TERMS FOR PROPER REDEMPTION IN EQUITY AS THE MATTER FALLS WITHIN THAT JURISDICTION. REDEMPTION IS A SUBSTANTIVE PROPERTY RIGHT BESIDES AN INALIENABLE PROCEDURAL RIGHT.

F. THE CHANCERY COURT ERRED OR ABUSED DISCRETION IN FAILING TO HEAR APPELLANT[']S PLEA FOR EQUITABLE "IN REM" RELIEF REDUCING THE UNDERLYING MORTGAGE CLAIM NOT TO EXCEED THE VALUE OF SUBJECT PREMISES, ESPECIALLY WHERE THE ORIGINAL FINANCING ARRANGEMENT WAS CLEARLY A PREDATORY AND FRAUDULENT LOAN PRACTICE BASED ON AN IMPOSSIBLE APPRAISAL.

G. THE CHANCERY COURT ERRED OR ABUSED DISCRETION IN FAILING TO HEAR APPELLANT[']S PLEA FOR EQUITABLE "IN REM RELIEF" ALLOWING FOR PROPER REDEMPTION OF THE PREMISES WITHIN THE MONEY STANDARD AT ARTICLE 1 SECTION 10 U.S. CONSTITUTION.

H. THE CHANCERY COURT ERRED OR ABUSED DISCRETION IN FAILING TO HEAR APPELLANT[']S PLEA FOR EQUITABLE "IN REM RELIEF" REDUCING ORIGINAL PLAINTIFFS CLAIM BY THE EQUIVALENT RECOUPMENT DERIVED IN THE EXPANSION OF ACCOUNT-MONIES AS THERE WAS NO LOAN EVER EXTENDED OR SECURED. INSTEAD THE FINANCIAL ARRANGEMENT WAS CONCEIVED IN THE MONETIZATION OF DEBT-SECURITIES THROUGH THE OPERATION OF LEGAL TENDER STATUTES.

> I. THE CHANCERY COURT ERRED AS A MATTER OF LAW IN ALLOWING THE UNDERLYING FOR[E]CLOSURE COMPLAINT TO PROCEED ON AN IMPOSSIBLE ACCOUNTING WHERE THE PRINCIPLE WAS ISSUED AS NEW MONIES AND MUST BE RECOUPED AGAINST THE ORIGINAL DEBT ALLOWING RECISSION UNDER THE TERMS OF CONTRACT. THE ACCOUNTING WAS THEREFORE WRONG ON THE FACE FAILING TO COMPLY WITH LEGAL NOTICE REQUIREMENTS.

It is noteworthy that neither before the trial judge nor on appeal does Nielson address the dispositive hurdle he faces, namely, that his application for relief was made over a year after the judgment entered. Rule 4:50-1, which controls, states that a party may seek relief from a judgment under various categories dependent upon specified grounds. Nielson does not identify any grounds or allege any good cause recognized in the law, or any factual basis supported by the record as required by sections (a), (b), or (c) of the rule. See U.S. Bank Nat'l Ass'n v. Guillaume, 209 N.J. 449 (2012). Nielson did not raise any meritorious defense or claim attacking the validity of the judgment. Nor does he explain the reason for his delay.

Rule 4:50-2 states that motions seeking relief under from judgment under Rule 4:50-1(a), (b), or (c), must be made no more than one year after the judgment has entered. Hence those sections of the rule are in any event unavailable to Nielson.

Were we to categorize Nielson's application as based on other reasons included within Rule 4:50-1(d) or (f), because his grounds

for vacating the judgment are simply not cognizable in the law or supported by the record, those sections of the rule do not independently constitute a basis for relief. Although applications made under those sections of the rule can be heard beyond the one-year time-bar, that does not make the application viable. The Court explained in Guillaume that it would defy logic to set aside a default judgment when no meritorious defense exists. Id. at 469. It would defy logic to vacate the judgment here.

Affirmed.