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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-1233-16T4

USROF III LEGAL TITLE TRUST
2015-1, by U.S. BANK NATIONAL
ASSOCIATION, as legal Title
Trustee,

Plaintiff-Respondent,

v.

LINDA MEHNERT,

Defendant-Appellant.

Submitted May 2, 2018 – Decided May 16, 2018

Before Judges Nugent and Geiger.

On appeal from Superior Court of New Jersey,
Chancery Division, Hudson County, Docket No.
F-020001-14.

Linda Mehnert, appellant pro se.

Friedman Vartolo, LLP, attorneys for
respondent (Priya R. Patel, on the brief).

PER CURIAM

This is a mortgage foreclosure action. On October 19, 2007,
defendant, Linda Mehnert, executed a note evidencing a \$200,000
debt. Defendant secured the note by executing a mortgage to

Mortgage Electronic Registration Systems, Inc. (MERS) as nominee for First Horizon Home Loans, a Division of First Tennessee Bank, N.A., on property she owned. Defendant defaulted on January 1, 2009, when she failed to make an installment payment. According to the record, she made no further payments after the January 2009 default.

More than five years after defendant defaulted, First Horizon Home Loans filed a foreclosure complaint. Defendant filed an answer. She neither admitted nor denied most of the complaint's allegations, claiming she could not do so without seeing the original note and mortgage. Her answer included nine affirmative defenses.

On December 19, 2014, the Chancery Division judge entered an order granting summary judgment, and permitted the substitution of U.S. Bank National Association, as trustee for PROF-2013-S3 REMIC Trust VII as plaintiff. The judge struck defendant's affirmative defenses, entered default, and ordered the matter transferred to the Office of Foreclosure to proceed as an uncontested action.

In a written statement of reasons appended to the order, Judge Marybeth Rogers noted plaintiff had provided evidence that defendant executed the Note and Mortgage, the Mortgage was duly recorded, and defendant had defaulted. Based on that evidence,

the judge determined plaintiff had established a prima facie right to foreclose. The judge further noted that in defendant's opposition papers, defendant admitted she executed the note and mortgage and did not genuinely dispute the allegation of non-payment of the installments. As to defendant's affirmative defenses, Judge Rogers determined they were not supported by specific facts.

Rejecting defendant's claim that plaintiff lacked standing, Judge Rogers noted the named plaintiff was the "originating lender listed on the [n]ote." In addition, plaintiff had provided a certification of a representative attesting that the original plaintiff possessed the note and mortgage before commencing the foreclosure action.

Judge Rogers also rejected defendant's claim that the Notice of Intention to Foreclose did not meet the requirements of the Fair Foreclosure Act, N.J.S.A. 2A:50-53 to -68. The judge had examined the Notice of Intention and been "satisfied that the Notice of Intention complies with the Fair Foreclosure Act."

Last, the judge rejected defendant's argument that discovery was incomplete. The judge found defendant had not demonstrated either that a genuine issue of material fact was in dispute or that additional discovery would lead to information that would controvert plaintiff's prima facie case. The judge permitted the

substitution of U.S. Bank National Association, as trustee for PROF 2013-S3 REMIC Trust VII, as plaintiff.

Two years after Judge Rogers entered the order of summary judgment, the court dismissed the foreclosure action for lack of prosecution. Five months later, Judge Rogers granted plaintiff's motion to reinstate conditioned on plaintiff filing a motion for a Final Judgment with the Office of Foreclosure. The memorializing order also substituted USROF III Legal Title Trust 2015-1, by U.S. Bank National Association, as Legal Title Trustee, as plaintiff. The judge filed the order on May 27, 2016. The following month, on June 6, defendant filed a motion to vacate the order permitting reinstatement. The judge denied the motion. A final foreclosure judgment was entered on October 24, 2016.

Defendant appeals. She makes two arguments:

I. RULE 4:64-5 UNAMBIGUOUSLY ESTABLISHES COUNTERCLAIMS BROUGHT IN FORECLOSURE ACTIONS REMAIN PERMISSIVE.


II. THE PLAINTIFF HAS VIOLATED THE CONSUMER FRAUD ACT, NEW JERSEY FAIR FORECLOSURE ACT, AND THE TRUTH IN LENDING ACT.

We affirm, substantially for the reasons expressed by Judge Rogers in her written decisions. We have carefully considered defendant's remaining arguments in light of the record and controlling legal principles and determined the arguments are

without sufficient merit to warrant further discussion. R. 2:11-
3(e)(1)(E).

Affirmed.

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


CLERK OF THE APPELLATE DIVISION