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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-2733-16T4

JPMORGAN CHASE, NATIONAL
ASSOCIATION,

Plaintiff-Respondent,

v.

HARRY HENRY,

Defendant-Appellant,

and

MRS. HARRY HENRY, his wife,
and DARLENE L. WILKINS,

Defendants.

Submitted May 17, 2018 — Decided May 29, 2018

Before Judges Simonelli and Gooden Brown.

On appeal from Superior Court of New Jersey,
Chancery Division, Essex County, Docket No.
F-013573-15.

Harry Henry, appellant pro se.

McCalla Raymer Leibert Pierce, LLC, attorneys
for respondent (Brian P. Scibetta, on the
brief).

PER CURIAM

In this foreclosure matter, on March 3, 2017, defendant Harry Henry filed a notice of appeal from the final judgment entered on October 4, 2016. Because the filing was beyond forty-five days, Rule 2:4-2(a), the appeal is dismissed as untimely.

Addressing the merits, we discern no reason to reverse. Defendant does not deny that on July 25, 2007, he executed a note to BNC Mortgage, Inc. (BNC) in the amount of \$225,000, and a mortgage to Mortgage Electronic Registration Systems, Inc. (MERS), as nominee for BNC, on his property located in Newark, and he defaulted and has made no payment since November 1, 2014. Defendant also does not deny that plaintiff sent him a notice of intent to foreclose in December 2014; he was personally served with the summons and complaint on April 22, 2015; the court entered default following his failure to file an answer or other pleading; and plaintiff served him with a motion to enter final default judgment and he did not respond.

Defendant's only argument on appeal is that plaintiff lacked standing to foreclose because it did not own or control the original note, which plaintiff admitted was lost. However, plaintiff's authorized representative had executed an affidavit of lost note, attesting to plaintiff's possession of the original note at the time it was lost and attaching a true and correct copy

of the note. In addition, on April 18, 2013, MERS, as nominee for BNC, executed an assignment of the mortgage to plaintiff, and the assignment was recorded with the Essex County Registrar on May 2, 2013. Plaintiff filed the foreclosure complaint on April 15, 2015.

In denying defendant's motion to vacate the default judgment pursuant to Rule 4:50-1, the court held defendant's reason for failing to file an answer did not constitute excusable neglect and defendant failed to assert a meritorious defense. The court also held that standing is not a defense in the post-judgment context; plaintiff established its status as a holder of the note and submitted a certified true copy when it sought final judgment; and plaintiff's possession of the recorded assignment that pre-dated the complaint was, by itself, sufficient to confer standing to foreclose. We agree with the court's holdings. Defendant's arguments to the contrary are without sufficient merit to warrant further discussion. R. 2:11-3(e)(1)(E).

Appeal dismissed.

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


CLERK OF THE APPELLATE DIVISION