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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-4001-16T3

U.S. BANK NATIONAL ASSOCIATION,
as Trustee Successor in Interest
to Wilmington Trust Company as
Trustee Successor in Interest to
Bank of America N.A. as Trustee
Successor by Merger to LaSalle
Bank National Association as
Trustee for Structured Asset
Securities Corporation Mortgage
Pass-Through Certificate Series
2005-6,

Plaintiff-Respondent,

v.

EDWARD EINHORN,

Defendant-Appellant,

and

SARAH EINHORN, PNC BANK, N.A.,
AMERICAN EXPRESS BANK, FSB,
BERNARD I. WEINSTEIN, KENNEDY
CONCRETE INC., MIDLAND FUNDING
LLC, and STATE OF NEW JERSEY,

Defendants.

Submitted May 1, 2018 – Decided May 22, 2018

Before Judges Gilson and Mayer.

On appeal from Superior Court of New Jersey,
Chancery Division, Atlantic County, Docket No.
F-039967-15.

Edward Einhorn, appellant pro se.

Sandelands Eyet, LLP, attorneys for respondent
(Suzanne Q. Chamberlin, of counsel and on the
brief).

PER CURIAM

In this foreclosure action, defendant Edward Einhorn appeals from a November 2, 2016 order granting summary judgment to plaintiff and an April 7, 2017 final judgment of foreclosure. We affirm.

In February 2005, defendant borrowed just over \$281,000 and executed a promissory note in favor of Lehman Brothers Bank, FSB (Lehman). To secure payment of the note, defendant executed a mortgage on property located in Ventnor, New Jersey. The mortgage was given to Mortgage Electronic Registration Systems, Inc. (MERS) as nominee for Lehman. Thereafter, the mortgage was recorded.

Defendant stopped making payments on the note in April 2008. Since then, he has failed to make any payments on the note.

The mortgage has been assigned three times. In July 2008, MERS assigned the mortgage to Aurora Loan Services, LLC (Aurora). In May 2015, Aurora assigned the mortgage to US Bank National

Association, as Trustee, Successor in Interest to Wilmington Trust Company, as Trustee, Successor in Interest to Bank of America, N.A., as Trustee, Successor by Merger to LaSalle Bank National Association, as Trustee, for Structured Asset Securities Corporation Mortgage Pass-Through Certificate Series 2005-6 (US Bank or plaintiff). MERS also executed an assignment of the mortgage in favor of US Bank. All of the assignments were recorded.

US Bank filed a foreclosure action against defendant in December 2015. Defendant filed a contesting answer. Thereafter, plaintiff moved for summary judgment and defendant cross-moved to dismiss the complaint. After hearing oral argument, the Chancery court denied defendant's cross-motion and granted plaintiff's motion for summary judgment. Accordingly, on November 2, 2016, the court entered an order striking defendant's answer and returning the matter to the Office of Foreclosure to proceed as an uncontested matter. A final judgment of foreclosure was entered on April 7, 2017.

On appeal, defendant makes three arguments. First, he contends that plaintiff lacked standing. Next, he argues that plaintiff's claims were barred by the statute of limitations. Finally, he asserts that the certification submitted by plaintiff in support of its motion for summary judgment was deficient.

Having reviewed the record and the applicable law, we find no merit in any of these arguments.

There is no dispute that defendant executed the note and mortgage, the mortgage and assignments were recorded, and defendant defaulted on the note and has not paid the loan since April 2008.

We have held that "either possession of the note or an assignment of the mortgage that predate[s] the original complaint confer[s] standing." Deutsche Bank Tr. Co. Ams. v. Angeles, 428 N.J. Super. 315, 318 (App. Div. 2012) (citing Deutsche Bank Nat'l Tr. Co. Ams. v. Mitchell, 422 N.J. Super. 214, 216 (App. Div. 2011)). Plaintiff certified that it had possession of the original note prior to the filing of the complaint and produced the original note in the Chancery court. As holder of the note, plaintiff is entitled to enforce the note in a foreclosure action. See N.J.S.A. 12A:3-301; Mitchell, 422 N.J. Super. at 222-23.

The statute of limitations for a foreclosure of a residential mortgage is set forth in N.J.S.A. 2A:50-56.1. That statute provides that a foreclosure action must be commenced by the earliest of (a) six years from the date of maturity on the mortgage; (b) thirty-six years from the date of the recording of the execution of the mortgage, provided the mortgage itself does not provide for a period of payment in excess of thirty years; or

(c) twenty years from the date of default by the debtor on the mortgage. Ibid.


Defendant first claims that this matter did not involve a residential mortgage. He submitted no proof of that claim. In contrast, plaintiff submitted the mortgage, which makes it clear that it is a residential mortgage.

Defendant then argues that his default of the payment on the note triggered the six-year statute of limitations. Defendant is mistaken. The six-year statute of limitations is triggered by "the last payment or the maturity date set forth in the mortgage or the note[.]" N.J.S.A. 2A:50-56.1(a). The mortgage was a thirty-year mortgage with a final payment date of March 1, 2035. The note also had a maturity date of March 1, 2035. There is nothing in the record establishing that plaintiff accelerated the mortgage or the note prior to filing the foreclosure action. Accordingly, the twenty-year statute of limitations set forth in subsection (c) of N.J.S.A. 2A:50-56.1 governs. Plaintiff's action was timely.

Finally, we find no merit in defendant's arguments that plaintiff's certification in support of summary judgment was insufficient. The certification was submitted by an individual who had reviewed the relevant business records and certified to those records in accordance with Rule 1:6-6.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION