

**NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION**

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-0548-18T2**

WELLS FARGO, N.A.,

Plaintiff-Respondent,

v.

ARMANDO S. DUARTE,

Defendant-Appellant,

and

MRS. ARMANDO S. DUARTE, his wife,
MRS. HORACIO DUARTE, his wife,
MARIA GRACIETA SOARES DUARTE,
MR. DUARTE, husband of MARIA
GRACIETA SOARES DUARTE, THE
VALLEY HOSPITAL, PALISADES
COLLECTION LLC, MICHAEL L.
CASTELLI, JR., EDWARD P. CASTELLI,
CHASE BANK U.S., NATIONAL
ASSOCIATION, ZION EVANGELICAL
LUTHERAN CHURCH, NEW CENTURY
FINANCIAL SERVICES INC., JACKSON
CAPITAL INC., ASSET ADVANTAGE INC.
ASSIGNEE OF FLEET SERVICES
CORPORATION, STATE OF NEW JERSEY,
and UNITED STATES OF AMERICA,

Defendants.

Argued December 4, 2019 – Decided December 13, 2019

Before Judges Haas and Enright.

On appeal from the Superior Court of New Jersey,
Chancery Division, Bergen County, Docket No. F-
027069-13.

Armando Duarte, appellant, argued the cause pro se.

Suzanne Q. Chamberlain argued the cause for
respondent (Sandelands Eyt LLP, attorneys; Suzanne
Q. Chamberlin and Yi Zhu, of counsel and on the brief).

PER CURIAM

Defendant Armando S. Duarte appeals from the Chancery Division's August 21, 2018 order denying his motion to vacate a final judgment of foreclosure and a subsequent sheriff's sale held after defendant and his father's estate¹ defaulted in a residential mortgage foreclosure action involving a home equity conversion mortgage loan. We affirm.

Less than four months before his father's death in January 2010, defendant executed a home equity conversion note to plaintiff Wells Fargo Bank, N.A. in the amount of \$787,500 as his father's attorney-in-fact. The note was payable

¹ Defendant was named the executor of his father's estate.

in full when defendant's father died or no longer used the property as his principle residence. To secure payment, defendant executed a home equity conversion mortgage encumbering his father's residence in favor of plaintiff. The mortgage was recorded with the Bergen County Clerk's Office.

After defendant's father died, plaintiff elected to accelerate the debt and demand payment of the unpaid principal and interest. Defendant did not repay the loan, and plaintiff filed a complaint for foreclosure in August 2013. Defendant failed to file an answer to the complaint, and a default was entered against him and the estate in November 2015. The court entered a final judgment of foreclosure in plaintiff's favor in May 2016.

After several delays, a sheriff's sale was held, and plaintiff purchased the property. Several months later, defendant filed a motion to vacate the final judgment of foreclosure and the sheriff's sale.

Following oral argument, Judge James J. DeLuca denied the motion. In his comprehensive written decision, the judge considered and rejected the same arguments defendant raises on appeal. Among other things, the judge found that: (1) plaintiff properly served defendant with the foreclosure complaint; (2) defendant had no meritorious defenses to the complaint; and (3) defendant was unable to demonstrate that he and plaintiff had an enforceable oral agreement to

permit him to purchase the property for ninety-five percent of its market value.

This appeal followed.

As noted, defendant now repeats the same contentions he unsuccessfully raised in the Chancery Division. Having considered defendant's arguments in light of the record and applicable legal principles, we conclude they are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). We affirm substantially for the reasons expressed by Judge DeLuca in his thoughtful written decision that thoroughly addressed defendant's claims.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION