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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-1203-21**

**CAROL L. BARON,**

**Plaintiff-Appellant,**

**v.**

**LISA YOUNGBRODER,  
n/k/a LISA PEDROLI,  
BRIAN PEDROLI,**

**Defendants-Respondents,**

**and**

**ACCESS CAPITAL, INC.,  
FORD MOTOR CREDIT CO.,  
BANK OF AMERICA,  
SCAFFIDI LAW OFFICE,  
BELLEVILLE AUTOMOTIVE  
PARTS & SUPPLY CO.,  
TRI-LINC FEDERAL CREDIT  
UNION, ENDODONTIC  
SPECIALISTS PA, FIRST  
AMERICAN ACCEPTANCE,  
CO., LLC, and STATE OF  
NEW JERSEY,**

**Defendants.**

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Submitted October 24, 2022 – Decided February 10, 2023

Before Judges Currier and Bishop-Thompson.

On appeal from the Superior Court of New Jersey,  
Chancery Division, Ocean County, Docket No.  
F-006485-20.

Goldenberg, Mackler, Sayegh, Mintz, Pfeffer, Bonchi  
& Gill, attorneys for appellant (Keith A. Bonchi, of  
counsel and on the brief; Elliot J. Almanza, on the  
brief).

Respondents have not filed a brief.

#### PER CURIAM

Plaintiff Carol Baron appeals from a Chancery Division order vacating the entry of a final judgment of foreclosure against defendants Lisa and Brian Pedroli.<sup>1</sup> We affirm.

We discern the relevant facts and procedural history from the motion record. According to the Ocean County Clerk's office, on December 1, 2008, Lisa acquired ownership of residential property located in Barnegat.<sup>2</sup> Taxes

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<sup>1</sup> We refer to defendants by their first names to avoid any confusion caused by their common last name. No disrespect is intended.

<sup>2</sup> The deed recorded in the Ocean County Clerk's office on December 9, 2004 identifies Thomas Miller, a widower, and Lisa as owners of the property. Miller died in December 2008; however, as of June 5, 2020, an updated deed had not

were assessed for 2017 in the amount of \$1,179.24. Those taxes were not paid, and on June 4, 2018, a tax sale was held. The resulting tax certificate was sold to plaintiff and recorded in the Ocean County Clerk's office the same day. Plaintiff thereafter paid taxes from 2018 through 2020.

The statutory two-year period from the date of sale lapsed without the tax sale certificate being redeemed, and with plaintiff still holding the certificate. See N.J.S.A. 54:5-86(a). The record does not indicate whether plaintiff served defendants with written notice of intent to foreclose. On June 4, 2020, plaintiff initiated the foreclosure action. The next day, defendants were personally served with the complaint; however, they failed to answer.

Plaintiff contends a request for entry of default was made on July 27, 2020.<sup>3</sup> Thereafter, the trial court issued an order setting the amount, time, and place of redemption of the tax sale certificate for October 23, 2020.

On October 22, 2020, defendants filed a joint petition for Chapter 13 bankruptcy and an automatic stay of the foreclosure went into effect. Plaintiff filed an objection to the confirmation of defendants' proposed plan based on the

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been recorded. Brian was named as a defendant in the event he acquired any interest in the property because of the marriage.

<sup>3</sup> Plaintiff's verified complaint certified a request for entry of default was made on July 27, 2020. The record before us does not contain a copy of plaintiff's request or the order granting default

secured claim to the property. The bankruptcy was dismissed on June 10, 2021. Plaintiff promptly filed notice of the bankruptcy petition dismissal. Plaintiff moved for final judgment which was entered on July 7, 2021. The next day a copy of the final judgment was served on defendants.

On July 15, 2021, defendants filed a petition for a fee waiver. Defendants certified they held \$9,000 in a checking account and \$200 in cash. Defendants' petition was granted on July 20, 2021.

On October 4, 2021, defendants moved to vacate the final judgment. In defendants' certification filed in support of the motion, they sought relief to "allow [them] to pay [their] lien arrears" and "[t]he interest alone was punishment enough." In opposing the motion, plaintiff filed a lien redemption worksheet showing a redemption amount of \$26,027.82

Oral argument was conducted on November 5, 2021. Lisa explained the 2017 taxes were unpaid because she lost her job and Brian was "out of work" because of COVID-19. Lisa also explained they were making "double the amount" stated in their certification so they had enough money to redeem the lien. The judge pointed out defendants certified to having only \$9,000 in their bank account and inquired how they managed to obtain an additional \$16,000 in such a short amount of time. Defendants restated they were "out of work

because of COVID[-19]" and they were "reimbursed . . . through unemployment so that ... explains the reason [they had] the money." The judge directed defendants to provide a supplemental certification with bank account statements showing they had sufficient funds to redeem the tax sale certificate and the source of the funds.

Defendants submitted several uncertified financial documents—among them, a Bank of America account transaction summary from April 26, 2021 to May 25, 2021, and TD Bank checking account summaries from July 26, 2021 through October 25, 2021. The submission however did not explain the source of \$16,000 from July 2021 to November 2021. Also, the accounts totaled \$24,828.73, which was still insufficient to redeem the lien.

On November 19, 2021, the court held a second oral argument. Lisa acknowledged that the documents submitted were not in compliance with the court's order. Lisa explained they had an additional \$4,200 from another bank account, although a statement reflecting that was not submitted to plaintiff or the court. The judge permitted Lisa to show the account information on her laptop camera. The judge accepted Lisa's testimony regarding the additional amount and concluded that it was "good enough" and "put [them] over the top."

After oral argument, the judge rendered an oral decision. In granting the motion to vacate judgment, the judge concluded:

[T]he defendant has asserted in her papers . . . that during the period of time she was unemployed and [had] many issues in her life that prevented her from addressing all the things she needed to do and one of those things was the payment of her taxes. The court is satisfied that under the circumstances, given the unemployment and COVID and what . . . the country has gone through for the last year-and-a-half that that constitutes a . . . excusable neglect.

The judge also found defendants presented a meritorious defense. The judge stated

Meritorious defense for a tax (indiscernible) foreclosure can be had with a demonstration that there [were] funds sufficient to pay the lien. Here, the defendant has provided proof and the [c]ourt is satisfied that there's proof that they have funds available to pay the entire lien which is \$25,625.69 as of today. They have some amount of funds in excess to that, that funds are [in] bank accounts as testified to credibly by Lisa Pedrolì, that those funds have accumulated from ... unemployment, payments made to her by the government as well as the rescue plan provided as part of the COVID relief package and that between her and her husband they have accumulated sufficient funds to pay off the tax foreclosure.

The court entered the order vacating the judgment and directed defendants to pay the amount owed on the lien within two weeks. Defendants complied with the order and the tax sale foreclosure was dismissed on December 21, 2021.

On appeal, plaintiff contends the trial court "ignore[d] the operative inquiry" relevant to Rule 4:50-1(a) and made "irrelevant" and "unsupported" factual findings. Plaintiff also asserts the trial court erred when it ignored Del Vecchio v. Hemberger, 388 N.J. Super. 179 (App. Div. 2006), and permitted post-judgment redemption. We reject these contentions.

A motion to vacate based on Rule 4:50-1 "is within the sound discretion of the trial court and 'should be guided by equitable principles in determining whether relief should be granted or denied.'" M & D Assocs. v. Mandara, 366 N.J. Super. 341, 350 (App. Div. 2004) (quoting Hous. Auth. of Morristown v. Little, 135 N.J. 274, 283 (1994)). A court's determination under Rule 4:50-1 "warrants substantial deference, and should not be reversed unless it results in a clear abuse of discretion." US Bank Nat'l Ass'n v. Guillaume, 209 N.J. 449, 467 (2012). This Rule "'is designed to reconcile the strong interests in finality of judgments and judicial efficiency with the equitable notion that courts should have authority to avoid an unjust result in any given case.'" BV001 REO Blocker, LLC v. 53 W. Somerset St. Props., LLC, 467 N.J. Super. 117, 123 (App. Div. 2021) (quoting Manning Eng'g, Inc. v. Hudson Cnty. Park Comm'n, 74 N.J. 113, 120 (1977)).

The trial court's judgment will be left undisturbed "unless it represents a clear abuse of discretion." Little, 135 N.J. at 283. An abuse of discretion occurs when a decision is "made without a rational explanation, inexplicably depart[s] from established policies, or rest[s] on an impermissible basis." Guillaume, 209 N.J. at 467-68 (quoting Iliadis v. Wal-Mart Stores, Inc., 191 N.J. 88, 123 (2007)).

Vacating a tax foreclosure judgment is within the exercise of a judge's equitable powers. "Courts of equity have long been charged with the responsibility to fashion equitable remedies that address the unique setting of each case[,]" id. at 476, because "our law abhors a forfeiture." Town of Kearny v. Discount City of Old Bridge, Inc., 205 N.J. 386, 412-13 (2011). Thus, there are clear parameters governing a judge's powers to vacate a final judgment of tax foreclosure.

Rule 4:50-1 governs a motion for relief from a tax sale foreclosure judgment. See Mandara, 366 N.J. Super. at 351 (finding that, in a foreclosure action, Rule 4:50-1 is paramount to statutes governing practice and procedure). Rule 4:50-1 permits a court to relieve a party from a final judgment on the following grounds: "(a) mistake, inadvertence, surprise, or excusable neglect;

. . . or (f) any other reason justifying relief from the operation of the judgment or order."

Guided by these principles, we conclude the trial judge did not exceed his discretion in vacating the judgment based on excusable neglect under Rule 4:50-1(a). Excusable neglect has been defined as excusable carelessness "attributable to an honest mistake that is compatible with due diligence or reasonable prudence." Mancini v. EDS ex rel. N.J. Auto. Full. Ins. Underwriting Ass'n, 132 N.J. 330, 334 (1993). A meritorious defense is necessary to prevail under Rule 4:50-1(a) to avoid the "anomalous situation" of vacating a judgment "on the ground of mistake, accident, surprise or excusable neglect, only to discover later that the defendant had no meritorious defense. The time of the courts, counsel and litigants should not be taken up by such a futile proceeding." Guillaume, 209 N.J. at 469 (quoting Schulwitz v. Shuster, 27 N.J. Super. 554, 561 (App. Div. (1953))).

Contrary to plaintiff's arguments, the trial judge found the motion was governed by Rule 4:50, and that it was brought within the time fixed by Rule 4:50-2. The judge found defendants demonstrated a meritorious defense based on the reasons for the delinquency and the ability to satisfy the judgment based on the source of the funds. The trial judge specifically noted, with all "the

unemployment and COVID and what . . . the country [went] through . . . [defendant's default] constitute[d] . . . excusable neglect."

We next address plaintiff's argument the trial judge ignored the binding precedent of Del Vecchio. Plaintiff's reliance on Del Vecchio to argue that defendants were not entitled to post-judgment redemption is inapposite. In Del Vecchio, we affirmed the trial court's denial of reconsideration of defendant's motion to vacate final judgment entered one day after a certificate of non-redemption. We found no equitable grounds to vacate the judgment of foreclosure since defendant sought, but was unable to secure, funds to redeem the lien. As noted above, the trial judge analyzed defendants' motion to vacate in depth and applied the liberal standard under Rule 4:50-1 and Little.

We also add the following comment. Under Rule 4:50-1(f), a court may vacate a final judgment for "any other reason justifying relief from the operation of the judgment or order." See Ridge at Back Brook, LLC v. Klenert, 437 N.J. Super. 90, 98 (App. Div. 2014) ("Our courts have long adhered to the view that subsection (f)'s boundaries 'are as expansive as the need to achieve equity and justice.'" (quoting Court Invest. Co. v. Perillo, 48 N.J. 334, 341 (1966)).

"[R]elief under Rule 4:50-1(f) is available only when 'truly exceptional circumstances are present'" because of the significance applied to the finality of

judgments. Guillaume, 209 N.J. at 484 (quoting Little, 135 N.J. at 286). Application of the rule is "limited to 'situations in which, were it not applied, a grave injustice would occur.'" Ibid. (quoting Little, 135 N.J. at 289). The importance of finality "must be 'weighed in the balance with the equally salutary principle that justice should be done in every case.'" Nowosleska v. Steele, 400 N.J. Super. 297, 304(App. Div. 2008) (quoting Hodgson v. Applegate, 31 N.J. 29, 43 (1959)).

Defendants applied for a fee waiver a week after being served with the final judgment. Thereafter, they moved to vacate final judgment within three months. In the interim, they had amassed the funds required to redeem the tax sale certificate. Defendants explained they were unemployed due to COVID-19 and had eventually received unemployment monies. The judge found defendants' testimony credible. Defendants sought to exercise their legal right to redeem the property even though they initially lacked diligence in paying the taxes. Under these circumstances, we are satisfied the trial judge gave appropriate deference to the equitable principles. See Davis v. DND/Fidoreo, Inc., 317 N.J. Super. 92, 100-01 (App. Div. 1998). We perceive no abuse in discretion in the court's finding which was fully supported by the record.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION

A-1203-21