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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-2303-21**

**BV002 REO BLOCKER,
LLC,**

Plaintiff-Appellant,

v.

**NASSER CHAUDHRY and
NADIA CHAUDHRY, his
wife,**

Defendants-Respondents,

and

**BANK MIDWEST and
HOPE MEDICAL SPA &
HOLISTIC HEALTH,**

Defendants.

Argued March 13, 2023 – Decided April 21, 2023

Before Judges Whipple, Mawla and Smith.

**On appeal from the Superior Court of New Jersey,
Chancery Division, Burlington County, Docket No. F-
007219-20.**

Adam D. Greenberg argued the cause for appellant (Honig & Greenberg, LLC, attorneys; Adam D. Greenberg, on the briefs).

Christopher J. Chiacchio argued the cause for respondent Nasser Chaudhry (Posternock Apell, PC, and Flaster Greenberg, PC, attorneys; Christopher J. Chiacchio, of counsel; Arthur R. Armstrong, on the brief).

Dore R. Beinhaker argued the cause for respondent Nadia Chaudhry (Beinhaker & Beinhaker, LLC, attorneys; Dore R. Beinhaker, on the brief).

PER CURIAM

This is a tax sale certificate foreclosure appeal concerning a home located in the Township of Moorestown. Defendants Nasser and Nadia Chaudhry¹ purchased the property in August 1998 as tenants by the entirety. They were married at the time; both are listed on the title. The current value of the house is roughly \$1.2 million.

Nadia has resided in the home by herself since December 2015, when the couple separated. The two were divorced in 2016, after entering into a property settlement agreement (PSA). Under the PSA:

[Nasser] agrees to convey to [Nadia] by way of [d]eed all . . . interest he might have . . . in . . . said property. The conveyance shall take place within sixty . . . days

¹ For ease of reference, we use first names to refer to the Chaudhrys. In doing so we mean no disrespect.

of [November 11, 2015]. [Nadia] shall be responsible to prepare the [d]eed related to this conveyance.^[2]

The parties recognize[] however, the following caveats:

A. In the event [Nadia] lists [the property] for sale[, Nasser] shall receive the higher of twenty . . . percent of the net proceeds or \$200,000 upon the sale of the property in the event that the property is sold within the next [ten] years (2025). After 2025[, Nasser] waives all claims or interest in this asset.

Two years later, plaintiff BV002 REO Blocker LLC (REO) purchased a tax sale certificate for the property from the township, due to an outstanding \$68.85 tax deficiency. Plaintiff paid the delinquent tax amount along with a premium of \$48,100 and continued to pay all municipal liens on the property subsequent to that sale. Neither Nadia nor Nasser redeemed the property during this period.

On July 20, 2020, plaintiff filed a foreclosure complaint naming Nadia and Nasser as defendants. Plaintiff served process on Nadia at the house. The process server believed Nadia to be Nasser's wife, and thus a competent household member over fourteen years of age residing at the property, so he left Nasser's service with Nadia. But Nadia and Nasser had been divorced for

² This conveyance does not appear to have occurred.

over three years at that time, and Nasser resided elsewhere. Nadia did not inform the process server of this fact.

Nadia did not respond to the foreclosure complaint, and default judgment was entered in favor of plaintiff. Thereafter, Nasser moved to vacate the default judgment because he was never served. The judge granted the motion, leaving the question of whether Nasser indeed had a right of redemption for a later date, and the default order was vacated. The court reasoned:

The proof of service filed in support of the default entered in this matter indicates that service upon Nasser was made by leaving a copy of the pleadings with "a competent household member over [fourteen] years of age" who is identified as "Nadia Chaudhry[,]" "wife." It does not appear that Nadia refused service or that she advised the process server of the divorce and Nasser's relocation. Nonetheless Nasser and Nadia were divorced on January 19, 2016, long before the filing of the complaint in foreclosure and service of process. . . . Furthermore, Nasser certifies that he had relocated from the subject property prior to the entry of judgment of divorce and it was neither his dwelling place nor his usual place of abode. Thus, it is clear that the requirements of [Rule] 4:4-4(a)(1) were not satisfied.

After the reopening, Nasser filed a timely answer and Nadia paid the \$148,213.16 tax deficiency with funds borrowed from her brother.³ The brother certified he had no interest in the property. Plaintiff refused to accept the redemption or to relinquish the tax certificates. Instead, it sought reconsideration of the trial court's decision to vacate the default judgment, and argued Nadia's brother might be a third party with an interest in the property and thus unable to provide funds to redeem. Plaintiff moved for summary judgment, Nadia and Nasser both filed cross-motions, and on March 4, 2022, the court found in favor of Nadia. On the issue of the source of funds, the court reasoned:

[I]t matters not who actually hand-delivered the check to the tax collector. Clearly, the parties are in agreement that the bank check in payment of the amount calculated to be due was indeed tendered.

. . . .

[N]adia has provided a certification from [her brother], . . . who certifies that the monies provided to fund the bank check to redeem the tax lien came from his "personal funds"; that he wired those funds to Nadia's counsel; that he neither owns an interest in his sister's home, nor intends to obtain title thereto. Plaintiff provides no competent proof in opposition to

³ N.J.S.A. 54:5-54 concerns the right of redemption and provides "the owner . . . may redeem . . . at any time until the right to redeem has been cut off [via final judgment resulting in foreclosure]."

those statements The certification provided by [Nadia's brother] is uncontroverted.

As to whether plaintiff's motion for reconsideration was meritorious:

[T]he court was not ruling on Nasser's interest in the subject property, or lack thereof. Nasser was made a defendant to the action. Plaintiff believed it had properly served him with process, but it did not. "Defective service that results in a 'substantial deviation from service of process rules' typically make[s] a judgment void." M&D Assocs. v. Mandara, 366 N.J. Super. 341, 352-53 (App. Div. 2004). A meritorious defense need not be demonstrated in such a case. Id. at 353. Moreover, it is unquestionable that "[a] court should view 'the opening of default judgments . . . with great liberality' and should tolerate [']every []reasonable ground for indulgence . . . to the end that a just result is reached.'" Mancini v. EDS ex rel N.J. Auto Full Ins. Underwriting Ass'n., 132 N.J. 330, 334 (1993) (alterations in original) (quoting Marder v. Realty Constr. Co., 84 N.J. Super. 313, 318 (App. Div. 1964)[]).

The court granted Nadia's motion for summary judgment and directed plaintiff to accept her redemption payment and tender the canceled tax lien certificate. Plaintiff's motion for summary judgment was recharacterized as a motion for reconsideration and denied. This appeal followed.

We review a trial court's decision to grant or deny a motion for reconsideration under an abuse of discretion standard. Cummings v. Bahr, 295 N.J. Super. 374, 389 (App. Div. 1996). "The rule applies when the court's

decision represents a clear abuse of discretion based on plainly incorrect reasoning or failure to consider evidence or a good reason for the court to reconsider new information." Pressler & Verniero, Current N.J. Court Rules, cmt. 2 on R. 4:49-2 (2022). However, we review an appeal from the grant or denial of a motion for summary judgment de novo, applying the same standard as the motion judge. Templo Fuente De Vida Corp. v. Nat'l Union Fire Ins. Co. of Pittsburgh, 224 N.J. 189, 199 (2016).

Plaintiff first argues, because service delivered to Nadia was "reasonably calculated to provide notice" to Nasser, it was not deficient. Plaintiff asserts due process of law does not require personal service of process or actual notice of the suit. Instead, "the issue is whether the means employed—personal service at the apparent residence—were reasonably anticipated to provide notice."

Service of process is governed by Rule 4:4-4(a), which reads, in relevant part:

The primary method of obtaining in personam jurisdiction over a defendant . . . is by causing the summons and complaint to be personally served. . . .

(1) . . . by delivering a copy of the summons and complaint to the individual personally, or by leaving a copy thereof at the individual's dwelling place or usual

place of abode with a competent member of the household of the age of [fourteen] or over

[(Emphasis added).]

The defendant's "place of abode" is the place where the defendant actually resides at the time of service. Ledden v. Ehnes, 22 N.J. 501, 504 (1956). A "member of the household" includes "all competent persons over fourteen years who make their home with the person to be served" Resol. Tr. Corp. v. Associated Gulf Contractors Inc., 263 N.J. Super. 332, 341-43 (App. Div. 1993).

Plaintiff named Nasser as a defendant, likely because Nasser appears in the title search, and therefore presumably has an interest in the property. To what degree this is true is a factual issue for the court to determine after plaintiff has properly served the parties. Nasser is a defendant, and whether his claims ultimately have merit or not has no bearing on the issue of service, because due process requires he have an opportunity to dispute the claim prior to divesture.

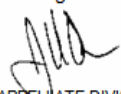
The judge specifically reopened the default judgment on the basis that Nasser had not been served. The issue of Nasser's property interest, or his right to redeem, was properly reserved for after he had a chance to file an

answer and respond to the suit. Nadia, not Nasser, ultimately redeemed the property. There is no valid argument Nadia lacked the right to redeem.

We have considered plaintiff's remaining arguments in light of the record and applicable legal principles and conclude they are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). We discern no abuse of discretion in this case and affirm substantially for the reasons the court expressed in its written opinion.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION