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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-0826-22**

**GHAZALA ZUBAIR and
ZUBAIR REHMAN,**

Plaintiffs-Appellants,

v.

PAPER ASSETS CAPITAL, LLC,

Defendant-Respondent.

Submitted November 15, 2023 – Decided May 31, 2024

Before Judges Accurso and Gummer.

On appeal from the Superior Court of New Jersey,
Chancery Division, Hudson County, Docket No.
C-000042-22.

Miller, Meyerson & Corbo, attorneys for appellants
(Gerald D. Miller, on the brief).

Norgaard, O'Boyle & Hannon, attorneys for respondent
(Cassandra Crimond Norgaard, on the brief).

PER CURIAM

Plaintiffs Ghazala Zubair and Zubair Rehman appeal from an order granting the summary-judgment motion of defendant Paper Assets Capital, LLC and dismissing with prejudice their complaint, in which they sought to "vacate[]" a second mortgage encumbering property owned by Zubair.¹ Agreeing with the motion judge's decision to grant the motion given the one-sided nature of the evidence and plaintiffs' failure to establish a genuine issue of material fact sufficient to defeat the motion, we affirm.

I.

Plaintiffs filed a verified complaint and a proposed "order to show cause to quiet title" (OTSC) in property located at 277 Grace Avenue in Secaucus. In the complaint, plaintiffs asserted Zubair, as " Ghazala Malik Rehman, married" purchased the property in 1996; the deed "was transferred between spouses" in 2004; and at the same time the deed was transferred, a "first [m]ortgage" of the property "was given" to Option One Mortgage Corporation.² Plaintiffs alleged

¹ Ghazala Zubair was formally known as Ghazala Malik Rehman. We refer to her by the last name she used in the complaint, Zubair. We refer to Zubair Rehman by his last name, Rehman.

² Plaintiffs attached the 1996 and 2004 deeds to the complaint. The 1996 deed shows the property was transferred from "Frank A. Rotella & Omayda R. Rotella, his wife" to "Ghazala Malik Rehman, married." The 2004 deed, which was dated June 1, 2004, and recorded on June 15, 2004, shows the property was

that when they attempted to refinance that mortgage in October 2019, the title search run by the "Lender" had revealed a recorded "2nd [m]ortgage (or HELOC), dated June 14, 2004, . . . given to PNC Bank by the [p]laintiffs for \$149,900.00."³

Plaintiffs attached to the complaint a copy of the 2004 mortgage. The mortgage, which was notarized, contains three signatures: one above the printed name "Zubair Rehman," one above the printed name "Ghazala Malik Rehman," and one below that printed name and next to a printed line stating "aka: Ghazala Zubair." Plaintiffs included copies of three subsequent recorded assignments of the mortgage, with the final assignment to defendant taking place on May 9, 2019. Plaintiffs also attached a copy of a June 14, 2004 HELOC agreement, which names PNC Bank as the lender and Ghazala Zubair as the borrower and provides a maximum credit limit of \$149,900. It includes as "closing costs" \$40 for "recording fees – mortgage." On the borrower's signature line, the name Ghazala Zubair is printed. A signature dated June 14, 2004, appears above that signature line.

transferred from "Ghazala Zubair (fka Ghazala Malik Rehman) and Zubair Rehman, her husband" to "Ghazala Zubair, married." The first mortgage is dated June 1, 2004, and was recorded on June 15, 2004.

³ We understand HELOC to mean a home equity line of credit.

Plaintiffs alleged in the complaint they had never opened a mortgage or HELOC with PNC Bank, had never received any funds or bill from PNC Bank, and had never made a mortgage payment to PNC Bank. They denied the signatures on the mortgage and HELOC agreement were their signatures. Asserting "[t]his was a scam of some sort," they claimed, "[t]his has come as a complete surprise to us." They acknowledged PNC Bank had initiated a subsequently dismissed foreclosure case against them in 2008 but claimed they were not served with the complaint and did not know about the case. Plaintiffs asked the court to vacate the mortgage securing the HELOC and declare that defendant did not have a title to, interest in, or encumbrance on the property. In their supporting certifications, plaintiffs made the same denials.

The motion judge issued the OTSC. After hearing argument, she denied plaintiffs' request for summary relief and issued a case management order, setting forth a detailed discovery schedule. Defendant timely served discovery requests on plaintiffs, but plaintiffs did not respond and did not serve any discovery requests.

Defendant moved "to strike/for summary judgment." In support of its motion, defendant submitted a statement of undisputed material facts, attorney certifications with attached exhibits, and a certification from a PNC Bank

records custodian. Defendant argued plaintiffs had done nothing to prove their case and merely relied on their own self-serving and unsupported statements. Defendant also contended the documentation it had produced demonstrated the mortgage was valid, the HELOC was legitimate, and plaintiffs knew about them.

The PNC Bank documentation defendant submitted in support of its motion included: an executed credit application from Zubair to PNC Bank; PNC Bank "application profile" screens, showing PNC Bank had obtained personal information about Zubair through the application process; a copy of a June 18, 2004 check in the amount of \$1,000 from PNC Bank to Zubair; an internal PNC Bank document indicating that as of April 2008, the borrower had withdrawn the full amount of the HELOC, leaving no available credit, and the account had been delinquent for over two hundred days; a March 7, 2008 email in which a PNC Bank employee referenced Zubair and the account number and stated "[c]ustomer called in and would like reinstatement letter to be mailed to him"; a copy of an affidavit of service indicating that on March 25, 2008, Zubair was served personally with the foreclosure complaint and Rehman was served by service on his wife; a copy of a signed check dated June 2, 2008, in the amount of \$2,977 from Zubair to PNC Bank containing handwritten references to the account number and the "line of credit"; a June 6, 2008 email from a PNC Bank

employee confirming "[c]ustomer paid the fees and costs Please place file on hold. Customer entered into a payment agreement with PNC"; a copy of the subsequent notice of dismissal of the foreclosure action submitted by PNC Bank; copies of a signed February 13, 2013 letter from Zubair to PNC Bank referencing the account and requesting verification of data conveyed to credit bureaus and a March 8, 2013 letter from PNC Bank to Zubair at the 277 Grace Avenue address; copies of letters sent by PNC Bank to Zubair at 277 Grace Avenue address in 2015, 2016, and 2017 regarding the default of the loan; and a copy of a November 1, 2019 letter sent by defendant to Zubair at the 277 Grace Avenue address referencing the "defaulted mortgage" on her property and describing a "Mortgage Lien Payoff Offer."

In opposition to the motion, plaintiffs submitted Zubair's certification, in which she denied: applying for a loan from PNC Bank; making any representations, calls, or payments to PNC Bank; signing any loan application, promissory note, or mortgage in favor of PNC Bank; receiving any money from PNC Bank; knowing about or being served with the foreclosure complaint; filing a credit report dispute in 2013; and signing any of the documents submitted by defendant that appeared to contain her signature. She conceded she had hired a credit repair company in 2013 but said she "was not aware of any

correspondence to or from PNC Bank at that time." Plaintiffs also submitted Rehman's certification, in which he denied only that he had signed the PNC Bank mortgage or knew about or was served with the foreclosure complaint. He did not deny calling PNC Bank. Plaintiffs provided a document entitled "Material Facts in Dispute," in which they purport to dispute defendant's factual assertions by referencing only their own certifications.

After hearing argument, the judge entered an order granting the motion and dismissing plaintiffs' complaint with prejudice. In a decision placed on the record, the judge found the documentary evidence established "there was an acknowledgment of not only the loan, but its own legitimacy." The judge noted plaintiffs had not submitted an expert opinion regarding their signatures. Finding plaintiffs had not established a genuine issue of material fact to be tried, the judge concluded: "You have to do more. You can't just say, I never signed that document. It . . . wouldn't carry the day at trial." We agree.

"We review a ruling on summary judgment de novo, applying the same legal standard as the trial court." Birmingham v. Travelers N.J. Ins. Co., 475 N.J. Super. 246, 255 (App. Div. 2023). That standard requires courts to "determine whether 'the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no

genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law.'" Branch v. Cream-O-Land Dairy, 244 N.J. 567, 582 (2021) (quoting R. 4:46-2(c)).

"To decide whether a genuine issue of material fact exists, the trial court must 'draw[] all legitimate inferences from the facts in favor of the non-moving party.'" Friedman v. Martinez, 242 N.J. 449, 472 (2020) (alteration in original) (quoting Globe Motor Co. v. Igdaley, 225 N.J. 469, 480 (2016)). Summary judgment is properly granted "when the evidence 'is so one-sided that one party must prevail as a matter of law.'" Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 540 (1995) (quoting Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 252 (1986)); see also Davis v. Brickman Landscaping, Ltd., 219 N.J. 395, 406 (2014); Memudu v. Gonzalez, 475 N.J. Super. 15, 19 (App. Div. 2023).

Moreover, a party opposing summary judgment does not create a genuine issue of fact simply by offering a sworn statement. Carroll v. N.J. Transit, 366 N.J. Super. 380, 388 (App. Div. 2004). "[C]onclusory and self-serving assertions' in certifications without explanatory or supporting facts will not defeat a meritorious motion for summary judgment." Hoffman v. AsSeenOnTV.com, Inc., 404 N.J. Super. 415, 425-26 (App. Div. 2009); accord Brae Asset Fund, LP v. Newman, 327 N.J. Super. 129, 134 (App. Div. 1999)

("bare conclusory assertions in an answering affidavit are insufficient to defeat a meritorious application for summary judgment").

And that's all plaintiffs offered in opposition to defendant's motion. Plaintiffs, who brought this lawsuit, had a full and fair opportunity through the discovery process to obtain information and documentation from defendant and PNC Bank. They could have deposed witnesses with knowledge critical to their claims that they knew nothing and signed nothing, like the notary who acknowledged the execution of the mortgage and process server who signed the affidavits of service of the foreclosure complaint. They could have obtained and produced bank records supporting their claims of not making any payments to or receiving funds from PNC Bank. And as the judge recognized, they could have submitted a report from a handwriting expert to support their forgery claims.

The documentary evidence overwhelmingly demonstrates the existence of the HELOC and mortgage as well as plaintiffs' knowledge of them. Their unsupported certifications do not establish a genuine issue of material fact sufficient to defeat summary judgment. Summary judgment was appropriate here given how one-sided the evidence was.

Affirmed.

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



CLERK OF THE APPELATE DIVISION