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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MONMOUTH COUNTY
DOCKET NO. F-4497-23

JOSEPH LAZARUS and RENAH LAZARUS,

Plaintiffs,

v.

HABIB TAWIL and LILLY TAWIL, husband and wife, MEIR HILLEL; COLUMBIA CAPITAL CO., CHARLES TAWIL a/k/a CHARLES C. TAWIL,

Defendants.

OPINION

Decided July 16, 2025.

Kennedy Lillis Schmidt & English (John T. Lillis, Jr., Esq., and Nathan T. Williams, Esq., appearing), attorneys for defendant Meir Hillel.

Giordano, Halleran & Ciesla (Matthew N. Fiorovanti, Esq., appearing), attorneys for defendant Lily Tawil.

Law Office of Eric S. Landau, Esq. (Eric S. Landau, Esq., appearing), attorney for defendant Habib Tawil.

FISHER, P.J.A.D. (t/a, retired on recall).

At the end of a four-day trial last month in this atypical foreclosure action, the court found it appropriate to segregate the parties' written post-trial submissions, as well as the rendering of the court's findings, into two phases. In the first phase, the court held, by way of its June 30, 2025 written opinion, that defendant Lily Tawil's signing of the note and mortgage, on which defendant Meir Hillel's foreclosure crossclaim is based, was procured through the deception of defendant Habib Tawil – Lily's husband; notwithstanding, the court held this fraud could not serve as a bar to Meir's claim because Meir was a more innocent victim of that fraud. With that determination, the second phase – dealing with all other defenses Lily might have to Meir's foreclosure claim – was necessitated.

Lily chiefly urges in this second phase that a judgment resulting from earlier litigation should bar Meir from foreclosing through the application of the collateral estoppel doctrine. Because, however, that earlier judgment was appealed and the case settled during the pendency of the appeal – with an agreement to reinstate the note and mortgage found ineffectual in the first action

– the court declines the invitation to apply collateral estoppel. The court also finds Lily has no other valid defense to the foreclosure claim.

I

To briefly recount what was previously found in the court's June 30, 2025 opinion, Habib sued Meir in the Law Division (hereafter "Tawil v. Hillel"), claiming nothing was due on a 2013 note (Hillel-1) and mortgage (Hillel-2) held by Meir on Habib and Lily's Deal home. The case was tried to a jury, which found in Habib's favor (Lily-5). Judgment was entered on April 11, 2022, and Meir filed a notice of appeal.[1]

While the appeal was pending, Habib and Meir and their attorneys met in Hackensack on February 9, 2023, and settled not only Tawil v. Hillel but other suits and disputes as well. That same evening, Habib and Meir executed all the Hackensack documents embodying their global settlement. Lily signed the

[1] The judgment did not discharge the mortgage; it instead posed a question about whether that relief could only be authorized by a chancery judge. To be specific, the last paragraph of the Tawil v. Hillel judgment (Lily-5) states that "the issue of whether this [j]udge or another judge sitting in the Chancery Division will issue the order directing the County Clerk to discharge the [c]redit [l]ine [m]ortgage from the [p]roperty's records will be decided on subsequent motion or on the consent of the parties." For that reason, when the appeal was filed not all issues had been resolved and, it is fair to say, the judgment was not a final judgment in the sense that it did not imbue Meir with an appeal as of right at that moment. See R. 2:2-3(b).

Hackensack documents a few days later.[2] The parties agreed (Hillel-4) to "reinstate" the 2013 note and mortgage Meir held on Habib and Lily's Deal home as part of the global settlement; this reinstatement called for Habib and Lily's acknowledgement of an indebtedness to Meir of $3,875,232.03, and Meir's agreement to accept in full payment the discounted amount of $1,200,000, so long as it was paid by August 31, 2023.

Within days of the execution of the Hackensack documents, which included the reinstated note and mortgage at the heart of Meir's foreclosure crossclaim here, stipulations of dismissal of Tawil v. Hillel were filed in both the Law Division and the Appellate Division, and the reinstated mortgage was recorded.[3]

In defending against Meir's foreclosure crossclaim, Lily argues that Meir's reinstated mortgage is "premised on an antecedent debt"; in other words, she argues, "no 'new' funds were lent to either Habib or Lily and no 'new' debt

[2] The court's findings and conclusions about Lily's execution of the Hackensack documents are contained in the court's June 30, 2025 decision.

[3] In earlier proceedings, the court determined that even though the mortgage held by plaintiffs Lazarus was recorded after Meir's 2013 mortgage, because reinstatement of the 2013 mortgage occurred after the Lazarus mortgage was recorded, the Lazarus mortgage had assumed first position.

was created in February 2013." Lily Br. at 3.[4] To be sure, the debt that Meir sought to have secured by way of the reinstated mortgage was the debt that was questioned in Tawil v. Hillel and, as noted, a jury found nothing was then owed by Habib to Meir. So, because the jury found nothing was owed on the antecedent debt and because the reinstated mortgage is based on that alleged antecedent debt, Lily contends there is no indebtedness on the reinstated note and mortgage and, thus, an element needed to foreclose is lacking. See Investors Bank v. Torres, 457 N.J. Super. 53, 65 (App. Div. 2018), aff'd, 243 N.J. 25 (2020).

II

There is, to be clear, no question that, in Tawil v. Hillel, a jury found: Habib proved Meir "agreed to discharge" the 2013 mortgage; Meir failed to prove Habib "agreed [to] borrow money from" Meir; and Meir failed to prove Habib "borrowed money" pursuant to the 2013 note and mortgage (Lily-5). It is true as well that after the parties reached their Hackensack settlement, a stipulation of dismissal was filed in the trial court that did not expressly vacate the judgment. From all this, Lily contends there was no longer an antecedent debt to support the reinstated note and mortgage now in question.

[4] In that way, Lily distinguishes her argument from what the court referred to in the previous opinion as her "lack-of-consideration" argument. Ibid.

Lily argues these undisputed circumstances trigger the doctrine of collateral estoppel, which, in laymen's terms, would, if applied, bar Meir from foreclosing on the reinstated note and mortgage in this action because a jury found no indebtedness in an earlier action. The Supreme Court has, in briefly describing the elements of this doctrine, recognized that it "bars relitigation of any issue which was actually determined in a prior action, generally between the same parties, involving a different claim or cause of action." In re Liquidation of Integrity Ins. Co., 214 N.J. 51, 66-67 (2013) (quoting State v. Gonzalez, 75 N.J. 181, 186 (1977)). Certainly, on its face, everything about what has occurred and is now occurring matches the chief elements of this doctrine: there was a prior action, a finding was then made that there was no indebtedness, and the present dispute involves "generally . . . the same parties" and whether there existed an indebtedness to the mortgage holder.[5] But this is all an oversimplification. It brings to mind how it is not uncommon – when asked whether the law does or doesn't require a precise result – one versed in the law will likely respond, "well, yes, but it depends." And so it is here.

[5] The prior suit was between Habib and Meir only, and the claim now in question is between Meir and Lily. But Habib and Lily being husband and wife, and they both were burdened by the prior and present mortgage, so there is an affinity of their positions that warrants a finding in Lily's favor on the "generally-the-same-parties" aspect of the collateral estoppel doctrine.

An aspect of the collateral estoppel doctrine that often goes unmentioned, because it is not often implicated, concerns the "finality" of the earlier disposition. In the Integrity Court's description of the doctrine quoted above, it abbreviated what has been well-recognized in other cases. Those earlier precedents found as an element of collateral estoppel that "the court in the prior proceeding issued a final judgment on the merits." Allen v. V & A Bros., Inc., 208 N.J. 114, 137 (2011) (emphasis added); Olivieri v. Y.M.F. Carpet, Inc., 186 N.J. 511, 521 (2006); In re Estate of Dawson, 136 N.J. 1, 20 (1994). In fact, in even earlier cases, the Court described this element as requiring proof that the prior matter was "determined by a valid and final judgment." State v. Redinger, 64 N.J. 41, 45 (1973) (emphasis added). That precise element – a prior "valid and final" judgment – was likewise recognized by the Supreme Court of the United States in Ashe v. Swenson, 397 U.S. 436, 443 (1970), when explaining the workings of the collateral estoppel doctrine. Both validity and finality play a large role here.

In examining whether Lily has demonstrated the existence of a valid and final prior judgment, the court must consider three sub-issues. The first concerns the indisputable fact that the judgment embodying the jury's verdict was not final in the sense the term is normally understood. As noted, see n.1, above, the April 11, 2022 judgment in Tawil v. Hillel did not direct the county clerk to

discharge the 2013 mortgage. The judgment instead questioned whether the Law Division judge was empowered to grant that relief. Second, the significance of other undeniable facts must be considered, namely: Meir's challenging of the judgment in an appeal that was later aborted when the parties reached their Hackensack settlement. And the third concerns yet another indisputable fact: the stipulation of dismissal filed in the Law Division did not expressly consent to a vacation of the April 11, 2022 judgment, it only stated that the action "is voluntarily dismissed and discontinued, with prejudice" (Hillel-40).

As for the first of these sub-issues, although the April 11, 2022 judgment lacked the elements of finality necessary to allow for appellate review as of right – it did not finally resolve all issues as to all parties, see R. 2:2-3(b); Grow v. Chokshi, 403 N.J. Super. 443, 457-58 (App. Div. 2008) – it did possess the type of finality the collateral estoppel doctrine requires. The jury found Habib owed Meir nothing, the April 11, 2022 judgment memorialized that finding, and the judgment did not leave open any further litigation about it. That there remained some other open issue – the trial judge's concern about whether a discharge of the mortgage had to be ordered by a chancery judge – was certainly of interest in determining whether Meir could appeal as of right, but that unresolved issue did not bear on the factual finding in question here. The court concludes that in requiring a "final" judgment, the collateral estoppel doctrine does not

presuppose an "appealable" judgment within the meaning of Rule 2:2-3(b), only a disposition that finally resolved the matter raised in the second action.

What is more relevant here is the second sub-issue: what impact does Meir's appeal of the prior judgment have on the application of collateral estoppel here? A great deal. Although our courts have said little about it, the collateral estoppel doctrine presupposes that the party against whom the doctrine is asserted had an opportunity to seek appellate review as of right of the prior disposition. It is here where the need for not only a final judgment – but a valid judgment – is implicated. As explained in Adelman v. BSI Financial Servs., Inc., 453 N.J. Super. 31, 40 (App. Div. 2018) (quoting Kortenhaus v. Eli Lilly & Co., 228 N.J. Super. 162, 166 (App. Div. 1988)), "[f]undamental to the theory of collateral estoppel is the notion that the earlier decision is reliable, an underlying confidence the result was substantially correct." To instill the degree of confidence required, the second court must at least be satisfied that the aggrieved party had the opportunity to seek appellate review as of right.[6]

[6] Since any party aggrieved of an interlocutory order may seek interlocutory review, see R. 2:5-6(a), that opportunity alone is insufficient, otherwise this element would always be present but often unavailable. Moreover, review of an interlocutory order lies in the appellate court's discretion, is allowed "sparingly," State v. Reldan, 100 N.J. 187, 205 (1985), and reserved for "exceptional cases," Grow, 403 N.J. Super. at 458. The appellate review required here must be that which the aggrieved party has an unfettered right to seek.

In short, the prior disposition must not just be "tentative" but truly final. It must be shown that the prior disposition either was tested on appeal, and passed that test, or that the aggrieved party eschewed the right to appeal.[7] Our courts may not have expressed an opinion about this fine point, but other courts have, and this court concludes that what the California courts have held – that the finality required by the collateral estoppel doctrine is that the prior final disposition has either survived on appeal or was not timely tested by an appeal – ought to be applied here. See, e.g., Sandoval v. Superior Court, 190 Cal. Rptr. 29, 32 (Cal. App. 1983); see also Manco Contracting Co. v. Bezdikian, 195 P.3d 604, 611 (Cal. 2008). Indeed, the California approach finds support in the Restatement of Judgments approach, see Sandoval, 190 Cal. Rptr. at 31-32, which our courts have found persuasive and have regularly followed in applying preclusion doctrines like collateral estoppel. See, e.g., Allen, 208 N.J. at 138; Hernandez v. Region Nine Hous. Corp., 146 N.J. 645, 659 (1996); Kortenhaus, 228 N.J. Super. at 164-66.

[7] To be clear, it is certainly not only final dispositions affirmed on appeal that will preclude later litigation but those in which the right to appeal existed but was not pursued. A party cannot allow a disposition to stand without an appellate challenge and then later claim it lacked either finality or validity. See, e.g., 46 Am.Jur.2d, Judgments § 508; Epstein v. Chatham Park, Inc., 153 A.2d 180, 185 (Del. Sup. Ct. 1959).

The importance of this is revealed by how the doctrine would be impacted if the facts were somewhat different. For example, consider what would happen if the parties had never reached their Hackensack settlement but instead, while the appeal was pending in Tawil v. Hillel, (1) plaintiffs Lazarus commenced this foreclosure action, (2) they named Meir as a defendant because of his undischarged mortgage; (3) Meir asserted his crossclaim against Habib and Lily to foreclose; and (4) one or more of the mortgagors moved to dismiss Meir's crossclaim because of the judgment in Tawil v. Hillel. If, as Lily implicitly argues, the collateral estoppel doctrine does not concern itself with a pending appeal, the court in Lazarus v. Tawil would be obligated to find Meir's crossclaim precluded because all the other elements would be present. But, if Meir's later foreclosure claim was dismissed, what would happen if Meir later succeeded in his appeal in Tawil v. Hillel? According to Lily's view, the collateral estoppel ruling would be invulnerable on appeal in Lazarus v. Tawil because the right to appeal the earlier disposition was irrelevant to the analysis. Does that make any sense? What logic, let alone jurisprudential policy, is served by enforcing a reversed judgment? Clearly, a pending appeal of an earlier disposition precludes the application of the collateral estoppel doctrine in a later action.

The best way to approach the above circumstances is to view the trial court judgment as "tentatively final" or at least final in a way not normally spoken of. That is, the prior disposition may have been enforceable, as is the thrust of the cases relied on Lily in this regard, see Lily Br. at 9, and it may have been appealable, but until the time-honored process of allowing the aggrieved party the exercise of the right[8] to appeal, that prior disposition should not be given collateral estoppel effect in a subsequent action.

The posture of things here, however, is not quite the same as in the hypothetical just discussed. Issue and claim preclusion doctrines, such as collateral estoppel, always rest on questions of fairness and judicial economy and, in that sense, imposing a bar on a party's attempt to relitigate an issue always rests in the court's sound discretion. See Parklane Hosiery Co. v. Shore, 439 U.S. 322, 331 (1979); Adelman, 453 N.J. Super. at 39-40. Phrased another way, in the final analysis, "[t]he actual decision whether to apply collateral estoppel undoubtedly involves equitable considerations." Integrity, 214 N.J. at 67-68 (quoting In re McWhorter, 887 F.2d 1564, 1567 (11th Cir. 1989)). And so,

[8] The court's holding concerns only the existence of a right to appeal, not a right to seek discretionary review after the resolution of the appeal as of right. That is, if Meir's appeal to the Appellate Division in Tawil v. Hillel failed and the judgment affirmed, the court expresses no view as to whether collateral estoppel would then apply even though Meir had a pending petition to the Supreme Court for certification because there is no right to Supreme Court review; the grant of certification lies solely in the Court's discretion.

in considering the third sub-issue posed – a question that requires consideration of what became of the appeal in Tawil v. Hillel and the significance of the wording of the stipulation of dismissal – the court must appreciate and give effect to the precise events that have brought us to this point.

As already mentioned, Meir's appeal in Tawil v. Hillel was never resolved on its merits. Instead, the parties sat down and reached an agreement – an event that "ranks high in our public policy," Nolan v. Lee Ho, 120 N.J. 465, 472 (1990) (quoting Jannarone v. W.T. Co., 65 N.J. Super. 472, 476 (App. Div. 1961)); see also Pinto v. Spectrum Chem. & Lab. Prods., 200 N.J. 580, 594 (2010) (recognizing the Court's "longstanding policy of encouraging the settlement of litigation"); Puder v. Buechel, 183 N.J. 428, 437 (2005) (observing that for "nearly forty-five years . . . our courts have actively encouraged litigants to settle their disputes") – and thereby eliminated the need for any further appellate examination into the sufficiency of the jury's verdict and the judgment. This doesn't mean that the court – in considering whether collateral estoppel should bar Meir's claim – should simply look to the fact that the appeal process ended without a reversal or that the court should be governed by the expressed wording of the stipulation of dismissal.

In the final analysis, in considering equitable principles that undergird the collateral estoppel doctrine, the court should be governed by what the parties

intended when they ended Tawil v. Hillel as revealed by what they said and did as well as the overall circumstances. As already found in the earlier decision, once the appeal was filed, the parties endeavored to settle – and did in fact settle – Tawil v. Hillel as well as other unrelated disputes. Part of that global agreement was to bring an end to the litigation in Tawil v. Hillel. That was accomplished by filing stipulations of dismissal in both the Law and Appellate Divisions. The agreed-upon stipulation of dismissal filed in the Law Division stated that "all matters having been fully settled, compromised, and adjusted, the captioned action is voluntarily dismissed and discontinued, with prejudice and without costs to any party" (Hillel-40). Reading this language literally and narrowly, Lily argues that the judgment was left intact – that the parties only agreed to terminate the litigation, not undo what the jury found or what the trial judge ordered. That interpretation is certainly plausible.[9] But that clearly is not the upshot of what the parties intended or what they did.

[9] Lily takes refuge in the fact that when ruling over a year ago on summary judgment motions, long before Lily sought relief from the judgment thereafter entered, the court observed that "there is no reason to conclude from the stipulations filed [in Tawil v. Hillel] in both the trial court . . . and the Appellate Division . . . to suggest that the Law Division judgment had been vacated or somehow undone. . . . [T]heir stipulation said nothing about undoing what had already transpired [in Tawil v. Hillel]." See Opinion (May 24, 2024) at 19. Those were observations, not findings – there having then been no evidentiary hearing – and the question now raised had not received any great focus until last month's trial. Moreover, courts are entitled to revisit and reconsider any prior observations or interlocutory orders, even on their own motion, until entry of

Indeed, it really comes down to this. If Habib or Lily thought they still could rely on what the jury found in Tawil v. Hillel, why would the global agreement call for the reinstatement of the note and mortgage and an acknowledgement as still due what is now referred to by Lily as the antecedent debt? Without a doubt, the parties realized they were undoing what had been done in the trial court as one part of a multi-faceted agreement in which many other promises were made and obligations exchanged. They agreed to restore the mortgage on the Deal home and to acknowledge as still due and owing the debt the jury found was not due and owing.

In light of the overall settlement, the court concludes that the prior determination made by the jury and embodied in the April 11, 2022 Law Division judgment should not preclude Meir's foreclosure crossclaim. It would indeed be absurd for Meir to negotiate for the reinstatement of the note and mortgage, in exchange for his agreeing to do other things beneficial to Habib and Lily, if what he obtained would prove illusory – or made illusory through

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final judgment. See R. 4:42-2(b). Now that there has been a full and robust evidentiary hearing – with far greater focus on what occurred in Hackensack and thereafter than was required by the summary-judgment record presented over a year ago – the court is free to revisit the matter. And so, to the extent the court's prior observations about the meaning of the stipulation of dismissal in Tawil v. Hillel should be thought inconsistent with the court's current findings, the former observations are disavowed and the findings made in response to the evidence adduced at the trial last month are those that will hereafter govern.

the application of the collateral estoppel doctrine – on the reinstated note and mortgage.

III

Having dispensed with the collateral estoppel doctrine's application here, it follows that the problem asserted by Lily for Meir's foreclosure claim – the absence of an antecedent debt – is no obstacle at all. To be sure, the antecedent debt was the debt that was litigated in Tawil v. Hillel, and Habib was successful at the trial level in convincing a jury of his peers that there was no debt, but that proven fact was bargained away when the parties entered into the Hackensack settlement agreement. Habib negotiated away the success he had achieved at the trial level – just as Meir negotiated away his right to challenge through appeal that trial level determination – as one part of the exchange of many promises embodied in the Salad agreement (Hillel-7).[10] The antecedent debt was acknowledged notwithstanding the result obtained at trial. The parties to the

[10] The parties expressly acknowledged the nature and status of the Tawil v. Hillel litigation (Hillel-4, first through fourth "whereas" clauses), and that the settlement was reached "in recognition of, inter alia, (1) the substantial additional expenses they would each have to expend to prosecute and defend the claims and defenses in [Tawil v. Hillel] and (2) the risk inherent in any litigation" (Hillel-4, fifth "whereas" clause).

Salad agreement clearly agreed that Meir would be relieved of the consequences of the jury's verdict in Tawil v. Hillel.[11]

This also has no consequence for the foreclosure claim against Lily. As held on June 30, 2025, Lily is bound to the Salad agreement and the other Hackensack documents, which included the reinstated note and mortgage, even though she only signed because of Habib's deceptive conduct. In addition, even though she was not an obligor on the 2013 note (Hillel-1 (stipulating that "borrower" means "H&L North 16 LLC . . . and Habib Tawil")) that is the basis for the antecedent debt, she was burdened by the 2013 mortgage (Hillel-2, ¶ 1), and the Salad and other agreements provided her with benefits that should be viewed as the consideration received by her for her agreement to be bound to the reinstated note and mortgage.[12]

[11] That doesn't mean that the parties were somehow agreeing the prior litigation never occurred. As explained when the court granted summary judgment in favor of Meir and against Habib, Meir's reinstated mortgage had to take a backseat to the Lazarus mortgage even though Meir's original mortgage was recorded prior to the Lazarus mortgage because what happened in Hackensack as it relates to this debt constituted a novation, not a reversion back into time as if nothing in Tawil v. Hillel had ever occurred.

[12] For example, one of the things Meir agreed to take responsibility for was a $300,000 judgment on which Lily was a judgment debtor. See Hillel-7, ¶ 1(a) ("Hillel will assume liability for the two judgments against each of the Tawils, Habib and Lily, entered in the Columbia lawsuits").

That the antecedent debt is the indebtedness on the reinstated note does not bar foreclosure, as Perkins v. Trinity Realty Co., 69 N.J. Eq. 723, 726-27 (Ch. 1905), aff'd, 71 N.J. Eq. 304 (E. & A. 1906), on which Lily predominantly relies in her written submission, see Lily Br. at 2-3, demonstrates. In Continental Bank of Pa. v. Barclay Riding Acad., 93 N.J. 153, 170 (1983), the Court recognized that "a third party can issue an enforceable mortgage to secure another's obligation," a notion that "derives from the accepted principle that one may enter into a binding contract for the benefit of a third party." This would seem particularly true when the benefited third party is a spouse because the third party giving the benefit, and the debtor receiving the benefit, are the sole members of a marital partnership.

IV

Although Lily's written submission divorces her position from any claim that the reinstated note and mortgage lacked consideration, for the sake of completeness the court finds that consideration was given by Meir to secure that part of the agreement.[13] Indeed, it suffices to say that the Salad agreement called for Meir to do things or take on obligations in other respects that conveyed a

[13] Lily distinguished lack of consideration from lack of indebtedness in her initial submission but, in her reply, seems to have also expressed a decision not to pursue the defense of lack of consideration at all. See Lily Reply at 2 ("Lily does not argue that there was a lack of 'consideration' for the Hillel [m]ortgage").

benefit to both Habib and Lily. And, even if as Lily now argues the other parts of the Salad agreement have no bearing on the reinstated note and mortgage – a conclusion the court nevertheless rejects[14] – it is enough in finding the existence of consideration to observe that Meir forwent his appeal of the Tawil v. Hillel judgment. Whether that seems to be something of little value is not the test. The Supreme Court has held that "[o]nly [a] minimal, often intangible, benefit need pass to satisfy the consideration requirement for third-party mortgages of existing debts." Continental Bank, 93 N.J. at 172. It also bears noting that Meir not only gave up the right to seek an overturning of the judgment in Tawil v. Hillel, but he also gave a significant discount of the acknowledged debt. His position was that nearly $4,000,000 was due on the antecedent debt but, to gain Habib and Lily's agreement to the reinstatement of the note and mortgage, Meir

[14] Lily's argument is based on the fact that the reinstated note and mortgage, and the agreement settling Tawil v. Hillel (Hillel-4), make no mention of the Salad agreement (Hillel-7). That may be true, but the Salad agreement does mention Habib and Lily's obligation on the reinstated note and mortgage (see, e.g., Hillel-7, ¶ 2(a)). Moreover, the absence of any reference in the former documents (the reinstated note and mortgage, and the Tawil v. Hillel settlement agreement) to the latter (the Salad agreement) doesn't mean the former shouldn't be understood in light of the Salad agreement and all other Hackensack documents. See Friendly Consumer Discount Co. v. Foell, 39 N.J. Super. 410, 415 (App. Div. 1956) (holding "that two or more writings, which are all parts of the same transaction, are to be interpreted together, even though they do not refer to each other"); see also Lawrence v. Tandy & Allen, Inc., 14 N.J. 1, 6 (1953); Wellmore Builders, Inc. v. Wannier, 49 N.J. Super. 456, 463 (App. Div. 1958). The evidence adduced at trial clearly revealed that all these transactions were dependent on all others.

gave up not only his appeal but he agreed as well to a discounted payoff amount of $1,200,000 if paid by a certain date; in addition, the acknowledged debt did not include interest allegedly accruing on the original disputed indebtedness.[15] Clearly, consideration was given by Meir in exchange for Lily and Habib's agreement to reinstate the note and mortgage as security that would ensure Habib and Lily's performance of other aspects of the Salad agreement.

V

In her written summation in the first phase, Lily also argued that the Hackensack agreement lacked mutual assent, that it was the product of a unilateral mistake of fact, and that it was unconscionable. The court rejects these contentions as well for largely the same reasons.

That is, while it may be true, as the court previously found, that Lily was not entirely aware of what she was agreeing to because of the deceptive way in which her signatures were obtained, that circumstance was caused by her husband, the co-obligor on the note and mortgage. Lily's assent – albeit un-informed – was freely given to her husband, Habib. But, for the reasons already observed in the court's earlier opinion, Habib's defrauding of Lily cannot serve to deprive Meir of the benefits of his bargain.

[15] Consideration may also be found in the fact that Lily's agreement to be bound to pay off the antecedent debt benefited her marital partnership with Habib. In other words, what would be good for one marital partner would be good for both.

The same conclusion should follow when considering Lily's claim that her assent was the product of a unilateral mistake of fact. Her argument in this regard is merely a restatement of her mutual-assent argument – that she did not understand or was mistaken about what it was she was signing. Again, because her husband's deception is not a basis for her escape from the consequences of her having signed the Hackensack documents, the derivative argument that she was mistaken about what it was she was agreeing to must also be found wanting.

Unconscionability – her last argument – falls for the same reasons as well. This defense requires an "evaluation of both procedure and substance." Rodriguez v. Raymours Furniture Co., 225 N.J. 343, 366 (2016); Sitogum v. Ropes, 352 N.J. Super. 555, 564 (Ch. Div. 2002). Procedural unconscionability, which would include, among other things, "the particular setting existing during the contract formation process," Muhammad v. Cty. Bank of Rehoboth Beach, 189 N.J. 1, 15 (2006) (quoting Sitogum, 352 N.J. Super. at 564), may have been established by Habib's deception, but again that is inconsequential in considering Meir's claim against Lily because Meir was also deceived and, between the two, it is Lily who must suffer the consequence. And Lily – despite having the burden of persuasion on her defense of unconscionability – has made no showing at all about the second half of that defense – substantive unconscionability – because she has not shown, and there is no evidence in the

record that reveals, that the exchange of promises contained in all the Hackensack documents is so lopsided against her that a court of equity ought to step in and withhold enforcement.

* * *

For all these reasons, as well as those expressed in the court's June 30, 2025 written opinion, Meir is entitled to a judgment of foreclosure against Lily. Meir's counsel is directed to submit an appropriate form of judgment under the five-day rule in conformity with this and the June 30, 2025 opinion.

In addition, because these proceedings about Meir's claim against Lily have delayed plaintiffs' right on their foreclosure judgment to proceed to a sheriff's sale, counsel for plaintiffs Lazarus may also submit an appropriate order, under the five-day rule, that lifts any of the existing restraints on the scheduling of a sheriff's sale.