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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 August 1, 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).

This unusual foreclosure action has spawned an interesting issue about a debtor's right to adjourn a sheriff's sale. Specifically, the court must determine whether, as an equitable matter, a four-month stay imposed on a first mortgagee's execution efforts – so the court could resolve, in the interim, a dispute about a second mortgage – ought to eliminate a debtor's adjournment rights under N.J.S.A. 2A:17-36.

The history of this case and the resolution of various issues previously presented were fully explored in written opinions filed on May 24, 2024, June 30, 2025, and July 17, 2025. The present issue about whether the judgment debtors have any remaining rights under N.J.S.A. 2A:17-36 are best understood by a consideration of the nature of the case and more recent events.

Briefly, defendants Habib and Lily Tawil are the owners of a home in Deal encumbered by two mortgages. Plaintiffs Joseph and Renah Lazarus commenced this foreclosure action in April 2023, claiming Habib and Lily Tawil defaulted on a $1,450,000 loan secured by a mortgage on their Deal home. Their action joined defendant Meir Hillel, whose crossclaim asserted Habib and Lily

defaulted on a note to repay nearly $4,000,000, also secured by a mortgage on the Deal property. On May 24, 2024, when ruling on the parties' summary judgment motions, the court determined that Habib and Lily had no valid defense to either plaintiffs' or Meir's foreclosure claims; the court also held that plaintiffs' mortgage took priority over Meir's. The action was transferred to the Office of Foreclosure and final judgment entered on September 18, 2024.

Through new counsel,[1] Lily moved in October 2024 for relief under Rule 4:50, raising new issues, most notably a claim that her execution of the note and mortgage held by Meir was the product of fraud. On November 22, 2024, the court found genuine factual disputes about the fraud claim and other related issues that could not be resolved on the papers and required an evidentiary hearing; Meir's judgment against Lily was vacated.

Meir and Lily then engaged in expedited discovery. Because Lily's claims, defenses, and arguments had nothing to do with the judgment of foreclosure entered in plaintiffs' favor, the court granted, on January 27, 2025, plaintiffs' application to certify as final, under Rule 4:42-2, their judgment against both Habib and Lily. A sheriff's sale was scheduled, but Meir moved for its postponement, claiming his rights would be severely prejudiced if there was a disposition of the property without a resolution of his foreclosure claim against

[1] Before then, Lily and Habib had been represented by the same attorney.

Lily.[2] Because discovery on the reopened issues was being diligently pursued, the court found it equitable to avoid the potential prejudice to Meir by adjourning the sheriff's sale until the completion of the Meir-Lily proceedings. An order entered on March 14, 2025, stayed the sheriff's sale for approximately sixty days. When it appeared that Meir and Lily were still conscientiously readying the case for a trial in early June, the court again stayed the sheriff's sale by order entered on May 19, 2025.

The Meir-Lily trial occurred in June 2025. The court – in two phases – decided the issues presented by way of opinions filed on June 30, and July 17, 2025. The court found in the first phase that Habib had deceptively secured Lily's signature on a series of agreements and documents, including the note and mortgage on which Meir's foreclosure claim is based. The court further found, however, that Habib's fraudulent conduct did not pose an obstacle to Meir's right to foreclose. In deciding the second-phase issues, the court found Lily had no other valid factual or legal defenses germane to Meir's foreclosure claim. With that ruling, the court invited plaintiffs to submit a proposed order under the five-day rule lifting the restraints on the sheriff's sale.

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[2] Meir was concerned that application of the recently-enacted Community Wealth Preservation Act, N.J.S.A. 2A:50-64(p), might limit the upset price at a sheriff's sale to the extent of plaintiffs' judgment and thereby "wipe out" his lien. See Opinion (Jan. 27, 2025) at 4-5.

Plaintiffs' proposed order included a provision that there would be no further adjournments of the sheriff's sale, which is now scheduled for August 18, 2025. Lily's counsel objected, and the court invited briefing on the issue of whether the adjournment rights embodied in N.J.S.A. 2A:17-36, or otherwise, had – as a consequence of the delay in plaintiffs' ability to execute on their judgment caused by the Meir-Lily proceedings – already been, in essence, exercised and that, as an equitable matter, those statutory rights should no longer stand in plaintiffs' way.

This particular dispute was certainly predictable. The parties' arguments that generated the decision to certify as final plaintiffs' judgment – and the court's comments about those arguments – recognized that the motion's opponents were concerned with what might occur if plaintiffs' collection efforts reach a sheriff's sale before an adjudication of the Lily-Meir dispute. The court then found no significant prejudice to plaintiffs since, if the stay was not imposed, and Habib and Lily were then required to exercise their statutory rights to adjournments, a delay would follow "for a long enough period to allow for an adjudication" of the Meir-Lily dispute. Thus, the stay imposed in the March order explicitly ended in May, approximately sixty days later. At the same time, the court was noncommittal about whether issuance of that stay would eliminate Habib and Lily's rights under N.J.S.A. 2A:17-36. While the sixty-day delay was

a slight underestimation of the time it took to resolve the Meir-Lily dispute, the delay in plaintiffs' ability to fully exercise their rights has not been significantly delayed and some particular concerns for plaintiffs have been addressed in the meantime to ameliorate some of the prejudice.[3] Now that the Meir-Lily dispute has been adjudicated, the question about whether Habib and Lily should be permitted any adjournment rights under N.J.S.A. 2A:17-36 – that the court expressed no view on in the earlier orders – has ripened and calls for a decision.

A prior version of N.J.S.A. 2A:17-36 (L. 1995, c. 244, § 2[4]) provided that a sheriff "may make two adjournments of the sale, and no more, at any time, not exceeding 14 calendar days." This statute's "obvious intent," as the Appellate Division recognized, was "to protect the judgment creditor from unjustified adjournments," while authorizing the court the discretion to grant other adjournments "for cause." Bankers Trust Co. of Calif. v. Delgado, 346 N.J. Super. 103, 106 (App. Div. 2001). Stated another way, the Legislature "clearly

[3] The first order, entered on March 14, 2025, stayed the sheriff's sale to a date no sooner than May 23, 2025; as then indicated, the two statutory adjournment rights (that could consist of a delay of 30-days each) – if the judgment debtors were forced to invoke them – would have similarly delayed the sheriff's sale. As that time drew near an end, the court considered whether the sheriff's sale should be further delayed and, after argument, entered a second order, on May 19, 2025, that obligated Habib and Lily – as a condition for the stay's continuance – to bring current the property taxes and show proof of insurance on the mortgaged property.

[4] The 1998 version amended a 1951 version (L. 1951, c. 344).

intended to require a judgment debtor seeking a third or subsequent adjournment, without the consent of the judgment creditor[,] to seek court approval, upon a showing of cause, in order to obtain further adjournments beyond the two allowed by the statute." Bankers Trust, 346 N.J. Super. at 107; see also Wells Fargo Home Mortg., Inc. v. Stull, 378 N.J. Super. 449, 453-55, 458 (App. Div. 2005); Realty Asset Properties, Ltd. v. Oldham, 356 N.J. Super. 16, 22 (App. Div. 2002). That version of N.J.S.A. 2A:17-36 also imposed a time-limitation: the two free adjournments are "not [to] exceed[] 14 calendar days for each."

A 2019 amendment (L. 2019, c. 71, § 3) provided some greater clarity, declaring that a sheriff "may make five adjournments of the sale," consisting of "two at the request of the lender, two at the request of the debtor, and one if both the lender and debtor agree to an adjournment, and no more." N.J.S.A. 2A:17-36. This new version provided greater breathing room for debtors by expanding the maximum length of each adjournment (they are each "not [to] exceed[] 30 calendar days"). The 2019 version of N.J.S.A. 2A:17-36 left unchanged the court's authority to grant a further delay on a showing of cause.

And so, against this paradigm, the court must consider that the Meir-Lily matter has delayed plaintiffs' right to satisfaction through a disposition of the property at a sheriff's sale for far more than the period of delay that Habib and

Lily could have obtained without cause under the statute. More than six months has elapsed since plaintiffs' judgment of foreclosure was certified as final, and approximately four months since the sheriff's sale was initially scheduled.

Equitable maxims provide some guidance, but also presents their not unusual give-and-take; for every maxim that tugs things one way, another pulls in a different direction. As a general matter, the maxim that equity abhors a forfeiture, Dunkin' Donuts of Am., Inc. v. Middletown Donut Corp., 100 N.J. 166, 182 (1985); see also Winberry Realty P'ship v. Bor. of Rutherford, 247 N.J. 165, 188 (2021) (observing that the maxim "perhaps has no greater force than when the forfeiture at issue is a home"), counsels in favor of providing a full panoply of benefits to the party facing foreclosure. But equity also regards as done that which ought to have been done, In re Estate of Hoffman, 63 N.J. 69, 77 (1973); Rutherford Nat'l Bank v. H.R. Bogle & Co., 114 N.J. Eq. 571, 573-74 (Ch. 1933), and plaintiffs – through no fault of theirs – have been delayed much longer than envisioned by N.J.S.A. 2A:17-36.[5] In the final analysis, the

[5] For that reason, yet another equitable maxim – "equity follows the law," Monmouth Lumber Co. v. Indemnity Ins. Co., 21 N.J. 439, 451 (1956) – does not pose an obstacle to a barring of any further without-cause adjournment requests from Habib and Lily. This maxim is not so rigid as to preclude a court of equity from either granting relief if there are "extraordinary circumstances" or "countervailing equities," ibid., or from crafting a remedy that "softens the rigor of the law," In re Estate of Shinn, 394 N.J. Super. 55, 67 (App. Div. 2007) (quoting Giberson v. First Nat. Bank, Spring Lake, 100 N.J. Eq. 502, 507 (Ch. 1927)), so long as the remedy "conform[s] to established rules and precedents,"

court is influenced by the fact that the delay permitted by the statute is to provide a debtor with a reasonable opportunity to retain the property even at the post-judgment stage; Habib and Lily have been provided with more than an ample period at this post-judgment stage to rescue their property from the judgment entered in plaintiffs' favor. The court is also persuaded by the fact that the cause for the delay – Lily's claim for relief under Rule 4:50 – was, after a full exploration, rejected. Indeed, the perpetrator of the fraud Lily alleged was her own husband Habib, not Meir. So, in essence, Habib and Lily have obtained a substantial delay of plaintiffs' right to execute for a reason that has proved lacking in merit. All the equities favor plaintiffs and none favors Habib and Lily. Habib and Lily have been allowed a substantial delay, far more than the moderate delay envisioned by the Legislature. In these circumstances, the court must conclude that Habib and Lily have implicitly enjoyed[6] the without-cause delays to which they were entitled under N.J.S.A. 2A:17-36.

Dunkin' Donuts, 100 N.J. at 183, and does not act "inconsistently" with established legal principles, Shinn, 394 N.J. Super. at 67. Today's order isn't inconsistent with N.J.S.A. 2A:17-36, it merely recognizes in these atypical circumstances that Habib and Lily have had the functional equivalent of the two free statutory adjournments; indeed, the order entered today more closely follows the statute because it guarantees for plaintiffs the right to be subjected to no further delays beyond the two free adjournments without a showing of cause and court approval.

[6] Even though Habib and Lily did not expressly seek the delays permitted by the March 14, and May 19, 2025 orders – those orders were entered at Meir's request

Equity jurisdiction is to be exercised "to do justice, not to create injustice." Heuer v. Heuer, 152 N.J. 226, 242 (1998); see also Yousef v. General Dynamics Corp., 205 N.J. 543, 568 (2011). Further delaying the vindication of plaintiffs' rights by allowing Habib and Lily two free adjournments after they have had the benefit of a months-long delay – a delay caused by their own actions or inactions – would create the type of injustice equity was intended to avoid.

For these reasons, plaintiffs are entitled to an order that declares Habib and Lily have no entitlement to the two free adjournments allowed by N.J.S.A. 2A:17-36. That, however, doesn't mean Habib and Lily may not seek an adjournment for cause under the court's discretionary authority recognized by N.J.S.A. 2A:17-36. The court's ruling on any such application will take into consideration the overall circumstances, including, of course, the extensive delay caused by Habib's and Lily's actions and inactions, cf., Hageman v. 28 Glen Park Assoc., L.L.C., 402 N.J. Super. 43, 55-56 (Ch. Div. 2008), and without any fault on plaintiffs' part.

An appropriate order has been entered.

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in seeking to protect his own interests – it certainly benefited Habib and Lily. Had Meir not intervened in seeking to delay the sheriff's sale, Habib and Lily likely would have. It didn't turn out that way only because Meir blinked first.