

New Jersey Foreclosure Spotlight

RECENT COURT DECISIONS IMPACTING BORROWERS AND LENDERS



MISTAKE DOES NOT RELIEVE FORECLOSURE SALE BIDDER OF LIABILITY FOR LOWER RESALE PRICE

In an unpublished decision issued on 2/28/19, the NJ Appellate Division rejected the appeal of a successful foreclosure bidder who mistakenly thought he had purchased a two-family house, when in fact the property was a single condominium unit. [Pennymac Loan Services, LLC v. Cruz, Docket No. A-2092-17T1 \(App. Div. 2019\).](#)

LENDER'S SERVICING AGENT DEEMED COMPETENT TO AUTHENTICATE LOAN DOCUMENTS

In an unpublished decision issued on 2/7/19, the NJ Appellate Division held that a lender's servicing agent can authenticate loan documents where the agent's certification signed by an employee confirmed that she reviewed the lender's business records and had personal knowledge of the lender's business practices. [U.S. Bank v. Bello, Docket No. A-1756-17T3 \(App. Div. 2019\).](#)

17-MONTH DELAY DOES NOT JUSTIFY RELIEF FROM TAX SALE FORECLOSURE JUDGMENT

In an unpublished decision issued on 2/28/19, the NJ Appellate Division denied the property owner's motion to vacate final tax sale foreclosure judgment, holding that a 17-month delay in filing the motion was unreasonable. [Pciro-1, LLC v. 479 Georgia Tavern Road, LLC, Docket No. A-1415-17T2 \(App. Div. 2019\).](#)



LOFARO & REISER SUCCEEDS IN VACATING TAX FORECLOSURE JUDGMENT FOR LUXURY WATERFRONT CONDO IN JERSEY CITY

Unlike a standard mortgage foreclosure case, when a plaintiff in a tax foreclosure case obtains a final judgment, title to the property passes to the plaintiff upon recording the judgment with the County Clerk.

In January 2019, our firm successfully vacated a final tax foreclosure judgment obtained against our client's luxury waterfront condominium in Jersey City, New Jersey valued at close to 2 Million Dollars. The client resides in China and had purchased the condo as a rental property investment. There was no mortgage on the property, and the client was unaware that her taxes had become delinquent. The client also was unaware that a lawsuit had been filed because the plaintiff attempted to serve her by a published notice in a local Jersey City, when the client was physically located in China. Absent relief from the judgment our client stood to lose her entire \$1.5 million dollar cash investment.

After a contested motion hearing the Chancery Court allowed our client to redeem the Property. Our client paid the tax lien in full and reimbursed the plaintiff for its legal fees and expenses. The Court agreed to vacate the judgment for defective service of process and because the substantial windfall that the tax foreclosure plaintiff rendered the judgment's prospective application no longer equitable.*

LB Park, LLC v. Cao, Superior Court of New Jersey, Chancery Division, Hudson County, Docket No.: F. 13364-17.

*Results may vary depending on the particular set of facts and circumstances.



“Until the Legislature devises a better system, courts of equity must do their best to balance the equities, taking into account the necessity of allowing the transfer to clear title and the need to compel the payment of property taxes, against the necessity of ameliorating, in appropriate circumstances, the onerous impact of the procedure in circumstances where the party has remained in possession of the property and has substantial equity in it.”

I.E.'s, LLC v. Simmons, 392 N.J. Super. 520, 536 (Law Div. 2006).