

No. 1-09-3613

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e) (1).

SIXTH DIVISION
January 21, 2011

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

JPMORGAN CHASE BANK,)	
	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
	)	Cook County.
v.)	
	)	No. 08 CH 30986
MARIYA ALEKSANDROVA,	)	Honorable
	)	Darryl B. Simko,
Defendant-Appellant.	)	Robert J. Quinn,
	)	Thomas R. Mulroy, Jr.,
	)	John C. Griffin,
	)	Judges Presiding.
)	

PRESIDING JUSTICE GARCIA delivered the judgment of the court.

Justices McBride and R. Gordon concurred in the judgment.

O R D E R

HELD: Jurisdictional defects bar review of *pro se* mortgagor's appeal from orders approving sale of mortgaged residence and distribution of proceeds and denying her successive petition to vacate. The mortgagor may not appeal from the order extending the mortgagor's special right to redeem as the order is

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not adverse.

Defendant Mariya Aleksandrova *pro se* purports to appeal from three orders of the circuit court of Cook County in this mortgage foreclosure case. The first order granted the motion of plaintiff, JPMorgan Chase Bank, to approve the report of sale of the mortgaged residence and to direct the distribution of proceeds, and granted the Bank possession of the property. The second order denied defendant's successive section 2-1401 petition to vacate judgment. The third order granted defendant's motion to extend the special right of redemption.

On appeal, defendant contends that plaintiff violated the rules of discovery and filed false documents, plaintiff's attorneys should be held responsible as debt collectors for unspecified conduct and a circuit court judge, not identified by defendant, was prejudiced against *pro se* litigants. We conclude we lack jurisdiction to address this appeal.

The record reveals that the following relevant facts. On March 30, 2007, defendant purchased residential real estate commonly known as 9440 Kelvin Lane, Unit 3244, Schiller Park, Illinois, a condominium unit, by procuring a mortgage from the Bank's predecessor, Washington Mutual Bank FA, in the amount of

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\$135,920.¹ Defendant defaulted on her obligations under the mortgage and Washington Mutual filed its complaint to foreclose mortgage. Defendant filed a *pro se* answer in which she requested time to sell the property to avoid foreclosure. On May 22, 2009, the circuit court entered a judgment for foreclosure and sale in the amount of \$152,251.66. The judgment set an expiration date for the redemption period of July 22, 2009, and ordered that the property be sold at the expiration of the redemption period.

Defendant filed a *pro se* motion to vacate the judgment as void under section 2-1401(f) of the Code of Civil Procedure (735 ILCS 5/2-1401(f) (West 2008)). She sent a 23-page letter to the Bank "to complain about the accounting and servicing of this mortgage." She expressed her concern about predatory and fraudulent practices involving mortgages and requested copies of documents. She also filed a *pro se* petition for a preliminary injunction to prevent harassment, foreclosure, debt collection, and sale of the property. With leave of court, defendant filed an amended motion to vacate, plaintiff responded, and on August 21, 2009, the circuit court entered a written order denying defendant's amended motion to vacate.

¹ With leave of court, JPMorgan Chase Bank, National Association was substituted as a party plaintiff for Washington Mutual on May 22, 2009.

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Thereafter, defendant filed a *pro se* emergency motion to vacate purported void judgment in which she alleged the amount owed was satisfied in full and Freddie Mac, not the Bank, owned the property. She supported the motion with her own affidavit in which she stated that she had reviewed the original note and mortgage documents at plaintiff's attorneys' office.

The Bank purchased the property for \$34,037 on September 18, 2009.

On October 16, 2009, the circuit court denied defendant's successive emergency motion to vacate and entered an order approving the report of sale and distribution, confirming the sale, and ordering defendant's eviction. Defendant's special right to redeem was set to expire 30 days after entry of the October 16 order. On November 17, 2009, the circuit court directed plaintiff to provide defendant with an estimate of the amount of her special right to redeem. On November 24, 2009, the circuit court granted defendant's emergency motion to extend the special right of redemption to December 7, 2009.

On December 24, 2009, defendant filed her *pro se* notice of appeal, listing the orders entered October 16, 2009, and November 24, 2009.

Generally, a notice of appeal must be filed on or before 30

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days after the entry of a final order to satisfy the jurisdictional requirement for an appeal. 155 Ill. 2d R. 301; *Citicorp Savings of Illinois v. First Chicago Trust Company of Illinois*, 269 Ill. App. 3d 293, 296 (1995).

Defendant first challenges the October 16, 2009, order approving the sale and distribution and placing the Bank in possession of the property within 30 days of its entry. It is well established that such an order constitutes a final order in an action to foreclose a mortgage on real estate. *De Bruyn v. Elrod*, 84 Ill. 2d 128, 137 (1981); *JPMorgan Chase Bank v. Fankhauser*, 383 Ill. App. 3d 254, 260 (2008). Such an order may also trigger an interlocutory appeal under Illinois Supreme Court Rule 307(a)(4) (eff. Feb. 26, 2010) because it places "a mortgagee in possession of mortgaged premises." Whether a final order or an order supporting an interlocutory appeal as of right, defendant was required to file a notice of appeal within 30 days of its entry. Defendant did not file her notice of appeal until December 24, 2009. Consequently, this court lacks jurisdiction to review the order approving the sale and distribution of proceeds and placing the Bank in possession of the property.

The second order on appeal was the October 16, 2009, order denying defendant's successive section 2-1401 (735 ILCS 5/2-1401

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(West 2008)) petition. That was a final order appealable under Illinois Supreme Court Rule 304(b)(3) (eff. Feb. 26, 2010) without a special finding required for a piecemeal appeal under Illinois Supreme Court Rule 304(a) (eff. Feb. 26, 2010); *Village of Glenview v. Buschelman*, 296 Ill. App. 3d 35, 41 (1998)). Illinois Supreme Court Rule 304(b) states that Illinois Supreme Court Rule 303 (eff. June 4, 2008) governs the time to file a notice of appeal under Illinois Supreme Court Rule 304(b). Pursuant to Illinois Supreme Court Rules 304(b) and 303(a)(1), the October 16, 2009, order denying defendant's section 2-1401 petition was a final and appealable order and the notice of appeal needed to be filed on or before November 16, 2009 (see also 5 ILCS 70/1.11 (West 2008)) because, at best for defendant, the 30-day period to file a notice of appeal started to run from the date the circuit court disposed of the successive petition to vacate on its merits. *People v. Walker*, 395 Ill. App. 3d 860, 868 (2009), *appeal allowed*, 236 Ill. 2d 542, No. 109631 (March 24, 2010); *Bell Federal Savings & Loan Ass'n v. Bank of Ravenswood*, 203 Ill. App. 3d 219, 224 (1990). At worst for defendant, the 30-day period started to run even earlier because that order disposed of a successive section 2-1401 petition (*Village of Glenview*, 296 Ill. App. 3d at 39-40). Either way,

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defendant missed the deadline and this court lacks jurisdiction to consider her appeal from the order denying her successive petition to vacate. *Village of Glenview*, 296 Ill. App. 3d at 42; *Bell Federal Savings & Loan Ass'n*, 203 Ill. App. 3d at 225.

Alternatively, pursuant to Illinois Supreme Court Rule 303(d) (eff. June 4, 2008), defendant could have filed a motion to extend the time to file the notice of appeal, "supported by a showing of reasonable excuse for failure to file a notice of appeal on time," on or before December 16, 2009. But defendant did not file her *pro se* notice of appeal until December 24, 2009, and she did not file a motion for leave to file a late notice of appeal within the time period for seeking an extension of time. See Ill. S. Ct. R. 303(d) (eff. June 4, 2008). Given these circumstances, this court lacks jurisdiction to review the denial of defendant's successive section 2-1401 petition to vacate.

The third order on appeal was the November 24, 2009, order extending defendant's special right to redeem to December 7, 2009. Defendant could not have appealed from that order. That order was an interlocutory order because it did not finally dispose of the parties' rights. See *Citicorp Savings of Illinois*, 269 Ill. App. 3d at 296-97; see also *Goodrich v. City National Bank & Trust Co.*, 113 Ill. App. 2d 471, 473-74, 477-78

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(1969) (an order directing that upon payment of the redemption amount a tax deed be set aside was a nonappealable interlocutory order). The order did not fall within the purview of the rules governing interlocutory appeals as of right (Ill. S. Ct. R. 307 (eff. Feb. 26, 2010)) or by permission (Ill. S. Ct. R. 306 (eff. Feb. 26, 2010)), because neither Rule 307 nor Rule 306 states that it applies to the special right to redeem.

Finally, this court is aware of the recent allegations of foreclosure irregularities in this country (see, e.g., *In re John T. Kemp v. Countrywide Home Loans*, 2010 Bankr. LEXIS 4085 (Bankr. D.N.J. November 16, 2010)), and we are sympathetic to defendant's plight. However, defendant chose to proceed as a *pro se* litigant. As a *pro se* litigant, she is required to comply with the procedural rules of the Illinois Supreme Court governing appellate review, and her *pro se* status did not excuse her failure to do so. See *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001); *First Illinois Bank & Trust v. Galuska*, 255 Ill. App. 3d 86, 94 (1993); see also *Sampson v. Ambrose*, 123 Ill. App. 3d 742, 743 (1984). Defendant's appeal from the first two orders was untimely, and the third order was not an appealable order. Therefore, this court lacks jurisdiction to review this appeal.

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For the above reasons, this appeal is dismissed.

Appeal dismissed.