

FOURTH DIVISION  
July 24, 2014

No. 1-13-1728

**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).

---

IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

---

DEUTSCHE BANK NATIONAL TRUST CO.,	)	Appeal from the
As Trustee for FFML MORTGAGE pass-through	)	Circuit Court of
Certification Series 2006 FF11,	)	Cook County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 10 CH 4411
	)	
ALLYSON R. ALLEN; MORTGAGE ELECTRONIC	)	
REGISTRATION SYSTEMS; NATION POINT,	)	Honorable
	)	Mathias W. Delort,
Defendants-Appellants.	)	Judge Presiding.

---

PRESIDING JUSTICE HOWSE delivered the judgment of the court.  
Justices Lavin and Epstein concurred in the judgment.

**ORDER**

¶ 1 *Held:* We dismissed defendant's appeal for lack of jurisdiction where she did not appeal from a final order.

¶ 2 This cause concerns a mortgage foreclosure action by plaintiff Deutsche Bank National Trust Company (Deutsche) against defendant Allyson Allen. Allen appeals, *pro se*, from a

"Notice of Sale," contending that Deutsche did not have standing to pursue the foreclosure, and that it falsified documents. Deutsche responds that because this appeal is not taken from a final order, we must dismiss Allen's appeal for lack of jurisdiction. We agree with Deutsche and dismiss Allen's appeal.

¶ 3 The record shows that on May 15, 2006, Allen secured a mortgage with Mortgage Electronic Registration Systems, Inc. (MERS), as nominee for NationPoint, for the subject property (15120 Oak Street, Dolton, IL) on a \$120,400 note, which was later modified to \$124,498.65. Allen also signed an "Adjustable Rate Note" for \$120,400. The mortgage was recorded on June 1, 2006, and pledged the property as security for the loan. NationPoint endorsed the note without recourse to First Franklin Financial Corporation, who then endorsed the note in blank. On February 2, 2010, Deutsche, as trustee for First Franklin Mortgage Loan Trust, filed a complaint to foreclose the mortgage against Allen. According to the complaint, Allen was in default for the monthly payments for October 1, 2009, through the time the complaint was filed, and the balance due on the note and mortgage was the total of the principal balance of \$123,844.92, plus interest, costs, advances and fees. As relief, Deutsche requested a judgment of foreclosure and sale, an order granting a shortened redemption period, a personal judgment for deficiency, an order granting possession, an order placing the mortgagee in possession or appointing a receiver, attorney fees, costs and expenses, the appointment of a selling officer, and further relief as the court deemed just.

¶ 4 On March 4, 2010, Allen, appearing *pro se*, answered that she had insufficient information with which to admit or deny the complaint's allegations, but "demand[ed] strict proof thereof."

¶ 5 On June 4, 2010, Deutsche filed a motion for summary judgment alleging that Allen failed to sufficiently set forth facts and supporting documentation showing that a genuine issue of material fact exists. In support of its motion, Deutsche submitted an affidavit showing the amounts due and owing under the terms of the mortgage and note. Deutsche also indicated in its motion for summary judgment that Allen failed to submit any counter-affidavit refuting the facts contained in its affidavit.

¶ 6 On August 23, 2012, the circuit court granted Deutsche's motion for summary judgment, finding that Allen did not raise a genuine issue of material fact. The court also entered a judgment of foreclosure and sale in favor of Deutsche in the amount of \$180,232.69, which included the principal, accrued interest and advances by Deutsche, costs of the suit, and foreclosure attorney fees, and mediation fees.

¶ 7 Pursuant to the judgment of foreclosure and sale entered on August 23, 2012, public notice was given that on April 30, 2013, the subject property would be sold to the highest bidder. The property was sold, and, on May 15, 2013, Deutsche filed its motion to approve the sale. On May 28, 2013, Allen filed her notice of appeal from the "judgment/order" of April 30, 2013. On June 19, 2013, Deutsche withdrew its motion to approve the sale.

¶ 8 On appeal, Allen contends that Deutsche did not have standing to bring the foreclosure action at issue, and falsified documents. However, Allen acknowledges that the case remains pending in the trial court.

¶ 9 Before turning to the merits of Allen's contentions, we must first examine whether we have jurisdiction to hear this appeal. See *Hamilton v. Williams*, 237 Ill. App. 3d 765, 772 (1992) ("[a]n appellate court is under a duty to consider its jurisdiction and to dismiss an appeal if jurisdiction is lacking").

¶ 10 A judgment ordering the foreclosure of a mortgage is not final and appealable until the trial court enters an order approving the sale and directing the distribution. *JP Morgan Chase Bank v. Fankhauser*, 383 Ill. App. 3d 254, 260 (2008), citing *In re Marriage of Verdung*, 126 Ill. 2d 542, 555-56 (1989). A judgment of foreclosure is not final and appealable because it does not dispose of all the issues between the parties, nor does it terminate the litigation. *Fankhauser*, 383 Ill. App. 3d at 260. However, the order confirming sale does conclusively establish the purchaser's right to the property and gives final approval to the proposed distribution of the sale proceeds. *Id.* at 260. "Accordingly, the order confirming the sale, rather than the judgment of foreclosure, is the final appealable order in a foreclosure case." *Id.* at 260.

¶ 11 Here, as Deutsche correctly indicates, Allen seeks to appeal from the sale of the property which she identifies as the "judgment/order being appealed." However, the notice of sale was neither an order nor a judgment. Moreover, the orders and judgments that had been entered in the case up to that point, *i.e.*, the entry of summary judgment and the judgment of foreclosure, were not final judgments. The record even shows that Deutsche withdrew its motion to approve the sale on June 19, 2013. Because no final judgment has been entered in this case, and the parties and the trial court clearly recognized the case would continue, the notice of appeal filed on May 28, 2013, did not satisfy the jurisdictional requirements of Supreme Court Rule 303(a) (eff. June 4, 2008), which requires that the notice of appeal be filed within 30 days of the entry of the final judgment from which the appeal is taken. We thus dismiss Allen's appeal for lack of jurisdiction, and decline to address the merits of her claims. See *Federal National Mortgage Association v. Tomei*, 2014 IL App (2d) 130652, ¶ 18 (dismissing the appeal for lack of jurisdiction where no final and appealable order was entered).

¶ 12 Appeal dismissed.