

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

U.S. Bank National Association, as Trustee :
for BAFC 2007-3 assignee of Mortgage : C.A. No: K11L-02-042 RBY
Electronic Registration Systems, Inc. as :
nominee for American Home Mortgage, :

Plaintiff, :
v. :
James Coppedge and Krisha Johnson, :
Defendants. : _____

Submitted: April 30, 2015

Decided: May 5, 2015

***Upon Consideration of Defendants’
Motion for Reconsideration and to Stay Sale
DENIED***

ORDER

Daniel T. Conway, Esquire, Atlantic Law Group, LLC, Georgetown, Delaware for Plaintiff.

James Coppedge, *Pro se.*

Krisha Johnson, *Pro se.*

Young, J.

DECISION

On April 17, 2015, this Court denied James Coppedge's and Krisha Johnson's (together, "Defendants") request to vacate judgment and stay sale. Defendants move for reconsideration of that Order.

On February 17, 2011, U.S. Bank N.A. ("Plaintiff") filed a Complaint against Defendants' seeking to foreclose upon its interest in property located at 52 Barkley Court, Dover, Delaware ("Property"). On September 15, 2011, the Court granted summary judgment in favor of Plaintiff reasoning: "[i]t is not disputed the mortgage exists, and that Defendants are the parties who have failed to pay the mortgage note...[t]he mortgage installments were not paid..[t]o this date, the mortgage note has not been satisfied."¹ Since that time, Defendants have filed three requests to vacate judgment and stay sale, all of which this Court has denied. The third denial is the focus of the present motion before the Court.

Although not stated as such, the Court understands Defendants to move pursuant to Superior Court Civil Rule 59(e), permitting motions for reargument of prior court decisions.² In Delaware, the law concerning motions for reargument is well settled: "[a] motion for reargument will be denied unless the Court has overlooked controlling precedent or legal principles, or the Court has misapprehended the law or facts such as would have changed the outcome of the underlying

¹ Court's Opinion, dated September 15, 2011 at p.5.

² See *Gsell v. Unclaimed Freight*, 1995 WL 339026, at *1, n. 2 (Del. Super. Ct. May 3, 1995) (where appellant was *pro se* "[t]he Court has attempted to characterize [Appellant's] position as recognizable legal argument").

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decision.”³ Furthermore, “[a] motion for reargument is not intended to rehash the arguments already decided by the Court.”⁴ Similarly, “[n]ew arguments, or arguments that could have been raised prior to the Court’s decision, cannot be raised in a motion for reargument.”⁵

Defendants have not raised *any* arguments, whether the same or new ones, in their present motion for reargument regarding the Court’s prior denial of the motion to vacate. Therefore, the Court cannot divine, based on no argument at all, what misapprehension of fact or law it is alleged to have committed in denying that motion. With respect to the Court’s prior order denying stay of sale, Defendants appear to raise a new argument, asserting that the sale should be stayed as they have appealed this Court’s order to the U.S. Supreme Court and the U.S. Court of Appeals for the Third Circuit. As a *new* argument regarding the stay of sale, the Court finds this inappropriate, given the motion for reargument standard.⁶

As Plaintiff points out, the circumstances underlying this case are undisputed. The Court has, further, already granted summary judgment. Defendants have continued to file motions seeking in essence, to reopen this fully adjudicated issue.

³ *Kennedy v. Invacare Corp.*, 2006 WL 488590, at *1 (Del. Super. Ct. Jan. 31, 2006) (internal quotations omitted).

⁴ *Id.*, at *2.

⁵ *Citimortgage, Inc. v. Bishop*, 2011 WL 1205149, at *1 (Del. Super. Ct. Mar. 29, 2011).

⁶ Plaintiff also avers that such appeal is in conflict with the correct procedure, as dictated by the Superior Court Civil Rules. The Court does not reach this issue.

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These attempts are, however, without merit. Defendants' motion is **DENIED**.

IT IS SO ORDERED.

/s/ Robert B. Young
J.

RBY/lmc

oc: Prothonotary

cc: Counsel

James Coppedge

Krishna Johnson

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