

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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_____AD3d_____

Argued - March 30, 2007

STEPHEN G. CRANE, J.P.
ANITA R. FLORIO
JOSEPH COVELLO
DANIEL D. ANGIOLILLO, JJ.

2006-01137

DECISION & ORDER

Bankers Trust Company of California, N.A.,
etc., respondent, v Joan Brunson, appellant,
et al., defendants.

(Index No. 7015/97)

Vernita Charles, Brooklyn, N.Y. (Owen Robinson of counsel), for appellant.

Rosicki, Rosicki & Associates, P.C., Plainview, N.Y. (Andrew Morganstern of
counsel), for respondent.

In a consolidated action to foreclose a mortgage, the defendant Joan Brunson appeals from an order of the Supreme Court, Queens County (Schulman, J.), dated December 23, 2005, which denied her motion to recalculate postjudgment interest on a judgment of foreclosure and sale entered February 25, 1998, and to award her damages for unlawful eviction.

ORDERED that the order is affirmed, with costs.

The Supreme Court properly denied the motion of the defendant Joan Brunson (hereinafter the defendant) to recalculate postjudgment interest on the judgment of foreclosure and sale. Postjudgment interest is awarded as a penalty for the delayed payment of a judgment (*cf. ERHAL Holding Corp. v Rusin*, 252 AD2d 473, 474). Barring any inequitable or dilatory conduct on the part of the judgment creditor, a money judgment bears interest from the date of its entry and continues to accrue at the statutory rate until the judgment is satisfied (*see* CPLR 5003; *Matter of Matra Bldg. Corp. v Kucker*, 19 AD3d 496; *Greenberg v Greenberg*, 269 AD2d 354, 355; *Purpura v Purpura*, 261 AD2d 595, 597). Here, there is no evidence that the plaintiff engaged in any

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inequitable or dilatory conduct which would preclude its entitlement to interest earned on the unpaid judgment (*see Greenberg v Greenberg, supra; Purpura v Purpura, supra; cf. ERHAL Holding Corp. v Rusin, supra; Juracka v Ferrara, 120 AD2d 822, 822-824*).

The defendant's remaining contentions are without merit (*see RPAPL 853; Gold v Shuster, 264 AD2d 547, 549; Kolomensky v Wiener, 135 AD2d 505, 507*).

CRANE, J.P., FLORIO, COVELLO and ANGIOLILLO, JJ., concur.

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DECISION & ORDER ON MOTION

Bankers Trust Company of California, N.A.,
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(Index No. 7015/97)

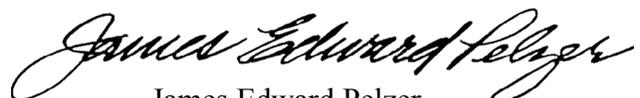
Motion by the respondent on an appeal from an order of the Supreme Court, Queens County, dated December 23, 2005, to strike Argument II of the appellant's main brief, and Point II of the appellant's reply brief, on the ground that they raise issues not properly before this court and refer to matter dehors the record. By decision and order on motion of this court dated November 24, 2006, the motion was held in abeyance and referred to the Justices hearing the appeal for determination upon the argument or submission of the appeal.

Upon the papers filed in support of the motion, the papers filed in opposition thereto, and upon the argument of the appeal, it is

ORDERED that the motion is denied.

CRANE, J.P., FLORIO, COVELLO and ANGIOLILLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

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