

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

D18684
G/hu

_____AD3d_____

Argued - March 11, 2008

WILLIAM F. MASTRO, J.P.
DAVID S. RITTER
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2007-04165

DECISION & ORDER

Wells Fargo Bank, etc., appellant, v Egon
Linzenberg, et al., defendants, Karen Linzenberg,
etc., respondent.

(Index No. 4891/05)

Montalbano, Condon & Frank, P.C., New City, N.Y. (Brian J. Quinn of counsel), for
appellant.

David Isaacson, New City, N.Y. (Susan R. Nudelman of counsel), for respondent.

In an action to foreclose a mortgage, the plaintiff appeals from an order of the Supreme Court, Rockland County (Liebowitz, J.), entered April 25, 2007, which granted the motion of the defendant Karen Linzenberg, a/k/a Karen DeFiebre, in effect, to vacate the judgment of foreclosure and sale entered October 19, 2005, upon her default in answering or appearing.

ORDERED that the order is reversed, on the law, the facts, and in the exercise of discretion, with costs, and the motion of the defendant Karen Linzenberg, a/k/a Karen DeFiebre, in effect, to vacate the judgment of foreclosure and sale entered October 19, 2005, is denied, and the judgment entered October 19, 2005, is reinstated.

The defendant Karen Linzenberg, a/k/a Karen DeFiebre, failed to present a reasonable excuse for her default in answering or appearing in this action (*see* CPLR 5015[a][1]; *Eugene Di Lorenzo, Inc. v. A.C. Dutton Lbr. Co.*, 67 NY2d 138, 141; *Bank of N.Y. v Segui*, 42 AD3d 555; *Fischman v Gilmore*, 246 AD2d 508; *Morel v Clacherty*, 186 AD2d 638; *Shaw v Shaw*, 97 AD2d 403). Furthermore, her allegations that the plaintiff committed or participated in fraud are broad and

April 1, 2008

Page 1.

unsubstantiated (*see Aames Capital Corp. v Davidsohn*, 24 AD3d 474, 475). Accordingly, the Supreme Court should have denied her motion to vacate.

In light of this determination, we need not address the parties' remaining contentions.

MASTRO, J.P., RITTER, CARNI and McCARTHY, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court