

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

D22536
O/kmg

_____AD3d_____

Argued - February 6, 2009

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
CHERYL E. CHAMBERS, JJ.

2007-11572

DECISION & ORDER

Option One Mortgage Corporation, respondent,
v Antonio Daddi, appellant, et al., defendants.

(Index No. 13574/05)

Lester and Associates, P.C., Garden City, N.Y. (Roy J. Lester of counsel), for appellant.

Fein, Such & Crane, LLP, Chestnut Ridge, N.Y. (Samit G. Patel of counsel), for respondent.

In an action to foreclose a mortgage, the defendant Antonio Daddi appeals from an order of the Supreme Court, Nassau County (Brandveen, J.), dated October 31, 2007, which denied his motion to set aside a judgment of foreclosure and sale of the same court (McCabe, J.), entered December 21, 2005, and the foreclosure sale conducted on September 26, 2006.

ORDERED that the order is affirmed, with costs.

The appellant's conduct and, inter alia, his stipulation of settlement, constituted a waiver of his purported defenses (*see Calderock Joint Ventures, L.P. v Mitiku*, 45 AD3d 452; *Matter of Commercial Bank of Informatics & Computing Technique Dev. Bank Informtechnika v Ostashko*, 274 AD2d 516; *Lomando v Duncan*, 257 AD2d 649).

Since there is no allegation that the plaintiff sought a deficiency judgment against the appellant, it cannot be said that the plaintiff's bid for the property at the foreclosure sale was unconscionably low (*see Polish Natl. Alliance of Brooklyn v White Eagle Hall Co.*, 98 AD2d 400, 407).

March 24, 2009

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OPTION ONE MORTGAGE CORPORATION v DADDI

The appellant's remaining contentions are without merit or need not be reached in light of our determination.

RIVERA, J.P., FLORIO, DICKERSON and CHAMBERS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer
Clerk of the Court