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

D25672
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_____AD3d_____ Argued - December 7, 2009

FRED T. SANTUCCI, J.P.
RUTH C. BALKIN
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2008-06387 DECISION & ORDER

LaSalle Bank National Association, respondent, v
Keisha Henderson, defendant, Lionel Spence, appellant.

(Index No. 26394/03)

Lionel Spence, Brooklyn, N.Y., appellant pro se.

Peter T. Roach & Associates, P.C., Syosset, N.Y. (Jonathan I. Ullmann of counsel), for respondent.

In an action to foreclose a mortgage, the defendant Lionel Spence appeals from an order of the Supreme Court, Kings County (Balter, J.), dated June 12, 2008, which denied his motions to stay the sale of the subject premises and to vacate the judgment of foreclosure and sale dated July 30, 2007.

ORDERED that the appeal from so much of the order as denied the appellant's motion to vacate the judgment of foreclosure and sale dated July 30, 2007, is dismissed; and it is further,

ORDERED that the order is affirmed insofar as reviewed; and it is further,

ORDERED that one bill of costs is awarded to the respondent.

The appellant's contentions with regard to the denial of his motion to stay the sale of

the subject premises are without merit.

It is the obligation of the appellant to assemble a proper record on appeal (*see Wen Zong Yu v Hua Fan,* 65 AD3d 1335; *Matter of Arcarian Sys., Ltd.,* 38 AD3d 649). In this regard, "[t]he record must contain all of the relevant papers that were before the Supreme Court" (*Wen Zong Yu v Hua Fan,* 65 AD3d at 1335; *see* CPLR 5526; 22 NYCRR 670.10-b[b]). Here, in addition to moving to stay the pending foreclosure sale, the appellant separately moved to vacate the judgment of foreclosure and sale dated July 30, 2007. However, the appellant did not include any papers relative to his motion to vacate. Inasmuch as the record is inadequate to review the denial by the Supreme Court of the motion to vacate, we dismiss the appeal from that part of the order (*see Wen Zong Yu v Hua Fan,* 65 AD3d at 1335; *Matter of Arcarian Sys. Ltd.,* 38 AD3d at 649).

SANTUCCI, J.P., BALKIN, ENG and CHAMBERS, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court