

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

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Submitted - May 26, 2011

REINALDO E. RIVERA, J.P.  
ANITA R. FLORIO  
THOMAS A. DICKERSON  
RANDALL T. ENG, JJ.

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2010-01842

DECISION & ORDER

Mortgage Electronic Registration Systems,  
Inc., etc., et al., respondents, v Mavis Reid, et al.,  
appellants, et al., defendants.

(Index No. 22388/06)

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Nnebe & Associates, P.C., Williamsburg, N.Y. (Okechukwu Valentine Nnebe of counsel), for appellants.

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

In an action to cancel and expunge a mortgage satisfaction erroneously made and recorded, the defendants Mavis Reid and Shen-Reka Clarke appeal from an order of the Supreme Court, Kings County (Partnow, J.), dated January 6, 2010, which denied their motion for leave to amend their answer and granted the plaintiffs' cross motion to vacate a prior order of the same court dated May 6, 2008, granting their unopposed motion for summary judgment dismissing the complaint insofar as asserted against them.

ORDERED that the order is affirmed, with costs.

The Supreme Court properly denied the motion of the defendants Mavis Reid and Shen-Reka Clarke (hereinafter together the homeowners) for leave to amend their answer to assert additional counterclaims. Leave to amend pleadings should be liberally granted (*see* CPLR 3025[b]). However, when the proposed amendment is palpably insufficient to state a cause of action or is patently devoid of merit, leave to amend should be denied (*see Scofield v DeGroodt*, 54 AD3d 1017, 1018; *Morton v Brookhaven Mem. Hosp.*, 32 AD3d 381, 381). Here, the homeowners' proposed counterclaims were patently devoid of merit.

June 14, 2011

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MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. v REID

The Supreme Court properly granted the plaintiffs' cross motion to vacate the order dated May 6, 2008, granting the homeowners' unopposed motion for summary judgment dismissing the complaint insofar as asserted against them (*see* CPLR 5015[a][1]). The plaintiffs demonstrated a reasonable excuse for their failure to oppose the motion and a potentially meritorious opposition to the motion (*see* CPLR 5015[a]; *Legaretta v Ekhsstor*, 74 AD3d 899; *Assael v 15 Broad St., LLC*, 71 AD3d 802, 803).

The parties' remaining contentions are without merit.

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

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan  
Clerk of the Court