

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

D32920
W/kmb

_____AD3d_____

Argued - October 7, 2011

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
PLUMMER E. LOTT, JJ.

2010-09351
2010-12010

DECISION & ORDER

New York Community Bank, etc., respondent, v Jay Vermonty, formerly known as Jesus Vermonty, et al., defendants, Dave Sheldon, also known as David Sheldon, et al., appellants.

(Index No. 21862/06)

Darren K. Kearns, Brooklyn, N.Y., appellant pro se, and for appellant Dave Sheldon, also known as David Sheldon.

Forchelli, Curto, Crowe, Deegan, Schwartz, Mineo & Cohn, LLP, Mineola, N.Y. (James C. Ricca and Kathryn Sammon Burns of counsel), for respondent.

In an action to foreclose a mortgage and to cancel a purported satisfaction of mortgage filed with the Office of the City Register of the City of New York for Queens County, the defendants Dave Sheldon, also known as David Sheldon, and Darren K. Kearns appeal from (1) a judgment of foreclosure and sale of the Supreme Court, Queens County (Grays, J.), entered August 13, 2010, which, upon their default in answering the complaint or otherwise appearing in the action, and upon an order of the same court entered January 21, 2010, inter alia, granting that branch of the plaintiff's motion which was to confirm so much of a referee's report dated July 23, 2009, as computed the unpaid principal due in connection with the mortgage note, interest, and advances for real property taxes and insurance, is in favor of the plaintiff and against them, and (2) an order of the same court entered October 14, 2010.

ORDERED that the appeal from so much of the judgment of foreclosure and sale as was entered on the appellants' default and not the subject of contest before the Supreme Court is

November 15, 2011

Page 1.

NEW YORK COMMUNITY BANK v VERMONTY

dismissed; and it is further,

ORDERED that the judgment of foreclosure and sale is affirmed insofar as reviewed; and it is further,

ORDERED that the appeal from the order is dismissed, as the appellants are not aggrieved thereby (*see* CPLR 5511); and it is further,

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

Several of the appellants' contentions regarding the judgment of foreclosure and sale are not properly before this Court due to the appellants' default in timely answering the complaint or otherwise appearing in this action. Their remaining contentions with regard to the judgment of foreclosure and sale are without merit.

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

ENTER:


Matthew G. Kiernan
Clerk of the Court