

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

D33263
O/ct

_____AD3d_____

Submitted - November 15, 2011

REINALDO E. RIVERA, J.P.
JOHN M. LEVENTHAL
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2011-00793

DECISION & ORDER

JP Morgan Chase Bank, N.A., appellant, v
Max Rosemberg, et al., defendants, Priscilla
Abrams, respondent.

(Index No. 10295/09)

Del Bello Donnellan Weingarten Wise & Wiederkehr, LLP, White Plains, N.Y. (Eric
J. Mandell of counsel), for appellant.

Bruce S. Reznick, P.C., Brooklyn, N.Y. (Thomas Torto and Jason Levine of counsel),
for respondent.

In an action to foreclose a mortgage, the plaintiff appeals from an order of the Supreme Court, Kings County (Bayne, J.), entered November 9, 2010, which denied its motion, in effect, for summary judgment on the complaint insofar as asserted against the defendant Priscilla Abrams.

ORDERED that the appeal is dismissed, with costs, and the order is vacated.

“The death of a party divests the court of jurisdiction and stays the proceedings until a proper substitution has been made pursuant to CPLR 1015(a). Moreover, any determination rendered without such substitution will generally be deemed a nullity” (*Singer v Riskin*, 32 AD3d 839, 839-840 [citations omitted]; see *Stancu v Cheon Hyang Oh*, 74 AD3d 1322, 1322-1323; *Hicks v Jeffrey*, 304 AD2d 618; *Gonzalez v Ford Motor Co.*, 295 AD2d 474, 475; *Brogan v Mary Immaculate Hosp. Div. of Catholic Med. Ctr. of Brooklyn & Queens*, 209 AD2d 663, 664). Although Priscilla Abrams was named as a defendant in the action, she died before the action was commenced, and no substitution took place as required by CPLR 1015(a). Accordingly, the order

December 13, 2011

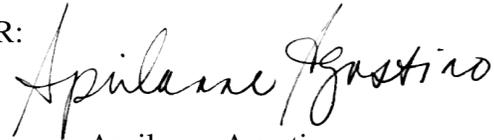
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appealed from is a nullity and this Court has no jurisdiction to entertain the appeal (*see Jordan v City of New York*, 23 AD3d 436, 437; *Bossert v Ford Motor Co.*, 140 AD2d 480, 481).

RIVERA, J.P., LEVENTHAL, ROMAN and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court