

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

D35273
W/kmb

_____AD3d_____

Argued - May 3, 2012

ANITA R. FLORIO, J.P.
RUTH C. BALKIN
CHERYL E. CHAMBERS
JEFFREY A. COHEN, JJ.

2004-10255

DECISION & ORDER

Citibank, N.A., respondent, v Michael Swiatkowski,
defendant, Lidia Swiatkowski, appellant.

(Index No. 1197/03)

Lidia Swiatkowski, Massapequa, N.Y., appellant pro se.

Katz & Rychik, P.C., New York, N.Y. (Bennett R. Katz of counsel), for respondent.

In an action to foreclose a mortgage, the defendant Lidia Swiatkowski appeals, as limited by her brief, from so much of an order of the Supreme Court, Nassau County (Jonas, J.), dated November 10, 2004, as denied those branches of the defendants' motion which were pursuant to CPLR 5015(a) to vacate a judgment entered June 14, 1999, in a prior action, and pursuant to CPLR 3211(a) to dismiss the complaint in this action.

ORDERED that the appeal is dismissed, without costs or disbursements.

The appeal from the intermediate order must be dismissed because the right of direct appeal therefrom terminated with the entry of the judgment in this action on October 13, 2005 (*see Matter of Aho*, 39 NY2d 241, 248), and, by decision and order on motion of this Court dated July 17, 2006, the appeal from that judgment was dismissed as abandoned for the appellant's failure to perfect the appeal.

FLORIO, J.P., BALKIN, CHAMBERS and COHEN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

August 8, 2012

CITIBANK, N.A. v SWIATKOWSKI