

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

D36772
C/kmb

_____AD3d_____

Argued - October 18, 2012

MARK C. DILLON, J.P.
JOHN M. LEVENTHAL
LEONARD B. AUSTIN
ROBERT J. MILLER, JJ.

2011-05640

DECISION & ORDER

Chase Home Finance, LLC, respondent,
v Miguel Quinn, et al., appellants.

(Index No. 21747/07)

Walter T. Ramsey, Brooklyn, N.Y., for appellants.

Stein, Wiener & Roth, LLP, Carle Place, N.Y. (Jonathan M. Cohen of counsel), for respondent.

In an action to foreclose a mortgage, the defendants Miguel Quinn and Blanca Quezada Ahmed appeal from an order of the Supreme Court, Nassau County (Adams, J.), entered April 13, 2011, which denied their motion to vacate a judgment of foreclosure and sale of the same court entered September 5, 2008, upon their default in appearing or answering.

ORDERED that the order is affirmed, with costs.

The Supreme Court providently exercised its discretion in denying the appellants' motion to vacate a judgment of foreclosure and sale. The appellants failed to proffer any evidence that the plaintiff procured the judgment of foreclosure and sale by fraud, misrepresentation, or other misconduct (*see* CPLR 5015[a][3]; *Wells Fargo Bank N.A. v Hornes*, 94 AD3d 755). Furthermore, a letter dated January 25, 2011, which was not in existence at the time the judgment of foreclosure and sale was entered, does not meet the criteria for newly discovered evidence pursuant to CPLR 5015(a)(2) (*see Coastal Sheet Metal Corp. v RJR Mech. Inc.*, 85 AD3d 420, 421; *Matter of Ayodele Ademoli J.*, 57 AD3d 668, 669).

December 12, 2012

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The appellants' remaining contentions are without merit.

DILLON, J.P., LEVENTHAL, AUSTIN and MILLER, 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