

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

D57668  
Q/afa

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - September 13, 2018

JOHN M. LEVENTHAL, J.P.  
CHERYL E. CHAMBERS  
LEONARD B. AUSTIN  
JEFFREY A. COHEN, JJ.

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2016-02367  
2016-02368

DECISION & ORDER

Wells Fargo Bank, N.A., etc., respondent,  
v Dominga Graffioli, et al., appellants, et al.,  
defendants.

(Index No. 8837/14)

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David A. Bythewood, Mineola, NY, for appellants.

Eckert Seamans Cherin & Mellott LLC, White Plains, NY (David V. Mignardi of  
counsel), for respondent.

In an action to foreclose a mortgage, the defendants Dominga Graffioli and Victor R. Gonzalez appeal from (1) an order of the Supreme Court, Nassau County (Thomas A. Adams, J.), entered December 10, 2015, and (2) an order of the same court entered December 11, 2015. The orders, insofar as appealed from, granted those branches of the plaintiff's motion which were for summary judgment on the complaint insofar as asserted against those defendants and for an order of reference and denied those defendants' cross motion for summary judgment dismissing the complaint insofar as asserted against them.

ORDERED that the appeals are dismissed, without costs or disbursements.

The appeal from the order entered December 10, 2015, must be dismissed because that order was superseded by the order entered December 11, 2015. The appeal from the order entered December 11, 2015, must be dismissed because the right of direct appeal therefrom terminated with the entry of an order and judgment of foreclosure and sale (one paper) in the action (*see Matter of Aho*, 39 NY2d 241, 248). The issues raised on the appeal from the order entered

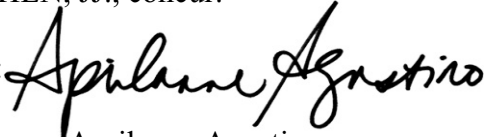
December 19, 2018

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December 11, 2015, are brought up for review and have been considered on the appeal from the order and judgment of foreclosure and sale (*see Wells Fargo Bank, N.A. v Graffioli*, \_\_\_ AD3d \_\_\_ [Appellate Division Docket No. 2018-00820; decided herewith]).

LEVENTHAL, J.P., CHAMBERS, AUSTIN and COHEN, JJ., concur.

ENTER:   
Aprilanne Agostino  
Clerk of the Court