

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

M244061
E/afa

L. PRISCILLA HALL, J.P.
SANDRA L. SGROI
JEFFREY A. COHEN
FRANCESCA E. CONNOLLY, JJ.

2016-03507, 2016-03508

DECISION & ORDER ON MOTION

Chase Home Finance, LLC, appellant,
v John Albero and Anthony Albero, etc.,
et al., respondents, et al., defendants.

(Index No. 11518/09)

Motion by the appellant, inter alia, to enlarge the time to perfect appeals from two orders of the Supreme Court, Queens County, entered September 27, 2010, and February 10, 2015, respectively. The respondent Francesco Albero died on October 29, 2009. By order to show cause dated October 13, 2017, the parties were directed to show cause before this Court why an order should or should not be made and entered dismissing the appeals on the grounds that the notices of appeals were filed in violation of the statutory stay of proceedings which arose upon the death of Francesco Albero, and vacating the orders entered September 27, 2010, and February 10, 2015, as nullities, the administrators of the deceased respondent's estate were substituted for the deceased respondent, and the branch of the motion which was to enlarge the time to perfect the appeals was held in abeyance in the interim.

Now, upon the order to show cause and the papers filed in response thereto, and upon the papers filed in support of the appellant's motion and no papers having been filed in opposition or in relation thereto, it is

ORDERED that the motion to dismiss the appeals and to vacate the orders entered September 27, 2010, and February 10, 2015, as nullities is granted, the appeals are dismissed, without costs or disbursements (*see* CPLR 1015[a]; *JP Morgan Chase Bank, N.A. v Rosemberg*, 90 AD3d 713), and the orders entered September 27, 2010, and February 10, 2015, are vacated (*see* CPLR 1015; *Matter of Einstoss*, 26 NY2d 181); and it is further,

ORDERED that the branch of the appellant's motion which is to enlarge the time to perfect the appeals is denied as academic.

HALL, J.P., SGROI, COHEN and CONNOLLY, JJ., concur.

ENTER.


Aprilanne Agostino
Clerk of the Court

January 2, 2018

CHASE HOME FINANCE, LLC v ALBERO