

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

M247372
E/rr

REINALDO E. RIVERA, J.P.
SANDRA L. SGROI
SYLVIA O. HINDS-RADIX
ANGELA G. IANNACCI, JJ.

2016-02175, 2016-02176

DECISION & ORDER ON MOTION

US Bank National Association, etc.,
respondent, v Annmarie Rode, etc.,
appellant, et al., defendants.

(Index No. 10745/11)

Motion by the appellant to stay the sale of the subject premises, pending hearing and determination of appeals from two orders of the Supreme Court, Nassau County, dated February 26, 2015, and September 15, 2015, respectively. By order to show cause dated January 12, 2018, 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 ground that the right of direct appeal from the orders terminated upon entry of a judgment of the Supreme Court, Nassau County, in the above-entitled action on September 8, 2017, and the appellant's motion was held in abeyance in the interim. Motion by the appellant pursuant to CPLR 5520(c) to deem the notice of appeal from the orders to be a premature notice of appeal from the judgment to the extent that the judgment brings up for review the orders, to deem the record and the parties' briefs filed in connection with the appeals from the orders to be filed in connection with the appeal from the judgment, to limit the issues raised on the appeal from the judgment to the issues raised in the briefs filed in connection with the appeals from the orders, and for leave to serve and file a supplemental record containing the judgment entered September 8, 2017.

Now, upon the order to show cause and the papers filed in response thereto, upon the papers filed in support of the motion to stay the sale of the subject premises and the papers filed in opposition thereto, and upon the papers filed in support of the motion, inter alia, pursuant to CPLR 5520(c) and no papers having been filed in opposition or in relation thereto, it is

ORDERED that the appellant's motion, inter alia, pursuant to CPLR 5520(c) is granted, the notice of appeal from the orders dated February 26, 2015, and September 15, 2015,

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respectively, is deemed to be a premature notice of appeal from the judgment entered September 8, 2017, to the extent that the judgment brings up for review the orders, the appeal from the judgment will be prosecuted under Appellate Division Docket No. 2016-02175 and not under Appellate Division Docket No. 2016-02176, the record and the parties' briefs filed in connection with the appeals from the orders are deemed to be filed in connection with the appeal from the judgment, the issues raised on the appeal from the judgment are limited to the issues raised in the briefs filed in connection with the appeals from the orders, and on or before April 9, 2018, the appellant shall serve and file a supplemental record containing the judgment entered September 8, 2017; and it is further,

ORDERED that the motion to dismiss the appeals is denied; and it is further,

ORDERED that the appellant's motion to stay the sale of the subject premises is granted and the foreclosure sale of the subject premises, located at 1097 Rosegold Street, Franklin Square, NY 11010, is stayed pending determination of the appeal.

RIVERA, J.P., SGROI, HINDS-RADIX and IANNACCI, 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