

Nationstar Mtge. LLC v Moor

2025 NY Slip Op 32029(U)

May 27, 2025

Supreme Court, Kings County

Docket Number: Index No. 516601//2022

Judge: Derefim B. Neckles

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

At an IAS Term, Part FSMP of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, 11201 on the 27th day of May, 2025.

P R E S E N T:

HON. DEREKIM B. NECKLES,
Acting Justice.

-----X
NATIONSTAR MORTGAGE LLC, DBA
CHAMPION MORTGAGE LLC,

Plaintiff,

- against -

Index No. 516601/2022

GRETA MOOR, ET AL,

Defendants.

-----X

The following e-filed papers read herein:

NYSCEF Doc Nos.

Notice of Motion/Affidavits (Affirmations) Annexed	<u>30-45</u>
Notice of Cross-Motion/Affidavits (Affirmations) Annexed	<u>48-55</u>
Notice of 2nd Cross-Motion/Affidavits (Affirmations) Annexed	<u>56-61</u>
Opposition Affirmation to Cross-Motion	<u>64</u>
Opposition Affirmation to 2nd Cross-Motion	<u>65</u>

Upon the foregoing papers in this proceeding, plaintiff moves (under mot. seq. 1) for an order (1) appointing a referee to compute the amount due to plaintiff, (2) adding Tanya Moore and Jackie "Doe" (occupants) as party defendants to this action in place of "John Doe" and amending the caption to reflect the same, (3) granting a default judgment against all non-appearing and non-answering defendants and the defaults can be fixed and determined pursuant to RPAPL §3215, (4) discontinuing the plaintiff's second cause of action in the complaint, (5) Substituting MORTGAGE ASSETS MANAGEMENT, LLC into the caption in the place and stead of plaintiff, and (6) Dropping Unknown Heirs of

Louis Williams, People of the State of New York and United States of America acting through the IRS as party defendants and amending of the caption to reflect the same.

Defendant Greta Moor cross-moves (under mot. seq. 2) for an order (1) vacating the defendant's default in answering, (2) granting defendant an extension of time to file a late answer, and (3) denying plaintiff's motion for an order of reference.

Non-party Tanya Moor cross-moves (under mot. seq. 3) for an order (1) denying plaintiff's motion for a default judgment and order of reference, (2) granting movant leave to intervene, (3) dismissing the action as abandoned pursuant to CPLR §3215(c), or (4) alternatively, granting movant leave to file a late answer.

Background

Plaintiff commenced this action on June 9, 2022 to foreclose on a mortgage encumbering the subject property located at 33 Cornelia Street, Brooklyn, New York. Defendant Tanya Moor was served on June 20, 2022, and a copy of the summons and complaint was mailed on June 22, 2022. Defendant Greta Moor was served on June 30, 2022, and a copy of the summons and complaint was mailed on July 1, 2022. Plaintiff filed a request for judicial intervention on June 20, 2024. The court held settlement conferences on July 23, 2024, and on August 13, 2024. The action was ultimately released from the settlement part, following the last conference. Plaintiff filed the instant motion for a default judgment on September 26, 2024.

Discussion

CPLR 3215(c) provides that “[i]f the plaintiff fails to take proceedings for the entry of judgment within one year after [a] default, the court shall not enter judgment but shall

dismiss the complaint as abandoned, without costs, upon its own initiative or on motion, unless sufficient cause is shown why the complaint should not be dismissed.” “The one exception to the otherwise mandatory language of CPLR 3215(c) is that the failure to timely seek a default on an unanswered complaint or counterclaim may be excused if sufficient cause is shown why the complaint should not be dismissed” (*see Bank of New York Mellon Tr. Co. v. Lee*, 202 A.D.3d 898, 898–99 [2d Dept 2022]; *Deutsche Bank Natl. Trust Co. v. Brathwaite*, 197 A.D.3d 557, 557–55). “To establish ‘sufficient cause,’ the party opposing dismissal must demonstrate that it had a reasonable excuse for the delay in taking proceedings for entry of a default judgment and that it has a potentially meritorious action” (*see U.S. Bank N.A. v. Moster*, 196 A.D.3d 663, 664; *1200 Bedford Ave., LLC v. Grace Baptist Church*, 199 A.D.3d 971).

Here, Tanya Moor was served on June 20, 2022, and the affidavit of service was filed on June 29, 2022. Greta Moor was served on June 30, 2022, and the affidavit of service was filed on July 6, 2022. The defendants defaulted by failing to answer the complaint within 30 days after service was complete (*see CPLR §308[4]*). It is undisputed that plaintiff took no proceedings toward entry of default judgment within a year after defendants’ default.

In opposition, plaintiff fails to address or offer a reasonable excuse for its failure to timely seek a default judgment. Plaintiff did not file a Request for Judicial Intervention until June 20, 2024, approximately 23 months after the latest defendant’s default (*see Bank of New York Mellon Tr. Co. v. Lee*, 202 A.D.3d at 899).

Accordingly, it is

ORDERED that Tanya Moor's cross-motion (mot. seq. 3) is granted to the extent that the action is dismissed as abandoned; and it is further

ORDERED that plaintiff's motion (mot. seq. 1) and Greta Moor's cross-motion (mot. seq. 2) are denied as moot as the action is dismissed.

This constitutes the decision and order of the court.

E N T E R,



HON. DEREKIM B. NECKLES
A. J. S. C.

KINGS COUNTY CLERK
FILED
2025 MAY 29 A 12:36