SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION, SECOND JUDICIAL DEPARTMENT

Wilmington Trust, N.A. v. Pacific St. Servs., Inc.

2026 NY Slip Op 00541 · No. 2022-08096 · Decided February 4, 2026

SUMMARY

The Appellate Division, Second Department, affirmed an order granting Wilmington Trust summary judgment in a mortgage foreclosure action against 55 Chester, LLC, striking the defendant's affirmative defenses and counterclaims, and appointing a referee. The court held that the action was timely, that the plaintiff established standing and the borrower's default, and that the defendant failed to raise a triable issue of fact.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Colleen D. Duffy, J.P.; Paul Wooten, J.; Helen Voutsinas, J.; Lourdes M. Ventura, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	February 4, 2026
DOCKET	2022-08096
DISPOSITION	affirmed
PROCEDURAL POSTURE	In a mortgage-foreclosure action, 55 Chester, LLC appealed from an order granting the plaintiff summary judgment, striking the defendant's affirmative defenses and counterclaims, and granting an order of reference.
STANDARD OF REVIEW	De novo review of summary judgment; the appellate court determined whether the plaintiff established prima facie entitlement to judgment as a matter of law and whether the defendant raised a triable issue of fact.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	55 Chester, LLC v. Wilmington Trust, National Association

TOPICS

foreclosure | mortgages | summary judgment | statute of limitations | appellate procedure

PRACTICE AREAS

real estate law | mortgage foreclosure | civil procedure | appellate procedure | summary judgment

QUESTIONS PRESENTED

1. Whether the foreclosure action was barred by the six-year statute of limitations.
2. Whether Wilmington Trust established prima facie entitlement to summary judgment by proving the mortgage, unpaid note, borrower default, and its standing to foreclose.
3. Whether 55 Chester, LLC raised a triable issue of fact in opposition to the plaintiff's motion.
4. Whether the Supreme Court properly struck the affirmative defenses and counterclaims and granted an order of reference.

HOLDINGS

1. The foreclosure action was timely because it was commenced within six years after the mortgage debt was accelerated in August 2013.
2. The plaintiff established prima facie entitlement to judgment as a matter of law by submitting the mortgage and unpaid note together with evidence of the borrower's default.
3. The plaintiff established prima facie standing because it attached a copy of the note, endorsed in blank, to the summons and complaint.
4. The defendant failed to raise a triable issue of fact in opposition to the plaintiff's prima facie showing.

KEY QUOTATIONS

> *“"[E]ven if a mortgage is payable in installments, once a mortgage debt is accelerated, the entire amount is due and the Statute of Limitations begins to run on the entire debt"”* ([*1])

> *“"In order to establish prima facie entitlement to judgment as a matter of law in a foreclosure action, a plaintiff must submit the mortgage and unpaid note, along with evidence of the default"”* ([*2])

> *“"A plaintiff has standing to maintain a mortgage foreclosure action where it is the holder or assignee of the underlying note at the time the action is commenced"”* ([*2])

FACTUAL BACKGROUND

Wilmington Trust sought to foreclose a mortgage on real property in Brooklyn. The mortgage debt had been accelerated in August 2013 when the plaintiff's predecessor commenced a prior foreclosure action, and Wilmington Trust commenced the present action in July 2019. The plaintiff submitted the mortgage, an unpaid note endorsed in blank, and loan-servicing records and an affidavit establishing the borrower's default, standing, and the timeliness of the action.

PROCEDURAL HISTORY

Wilmington Trust commenced the foreclosure action in July 2019. 55 Chester, LLC answered with affirmative defenses, including statute of limitations, and counterclaims seeking, among other relief, cancellation and discharge of the mortgage. The Supreme Court, Kings County, granted the relevant branches of Wilmington Trust's motion and appointed a referee to ascertain and compute the amount due; the Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Lubonty v. U.S. Bank N.A., 34 N.Y.3d 250, 261
- Wells Fargo Bank, N.A. v. Weinberg, 229 A.D.3d 840, 841
- BHMPW Funding, LLC v. Lloyd-Lewis, 194 A.D.3d 780, 782
- GMAT Legal Title Trust 2014-1 v. Kator, 213 A.D.3d 915, 916
- Wells Fargo Bank, N.A. v. Frankel, 220 A.D.3d 973, 974
- Freedom Mtge. Corp. v. Engel, 37 N.Y.3d 1, 22
- Zarabi v. Movahedian, 136 A.D.3d 895, 895
- Citimortgage, Inc. v. Doomes, 202 A.D.3d 752, 753-754
- Aurora Loan Servs., LLC v. Taylor, 25 N.Y.3d 355, 361-362
- JPMorgan Chase Bank, N.A. v. Newton, 203 A.D.3d 902, 905
- Deutsche Bank Natl. Trust Co. v. Pirozzi, 230 A.D.3d 736, 738