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

U.S. Bank N.A. v. Islam

2026 NY Slip Op 03015 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2022-05495, 2022-05496 · Decided May 13, 2026

SUMMARY

The New York Appellate Division, Second Department, held that the plaintiff failed to take proceedings for entry of a default judgment within the one-year period required by CPLR 3215(c) in a mortgage foreclosure action. The court dismissed the appeal from the order, reversed the judgment of foreclosure and sale, granted the defendant's motion to dismiss the complaint as abandoned, and denied the plaintiff's request for a judgment of foreclosure and sale.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Betsy Barros, J.P.; Barry E. Warhit, J.; Carl J. Landicino, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	May 13, 2026
DOCKET	2022-05495, 2022-05496
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from an order denying the defendant's CPLR 3215(c) motion to dismiss the mortgage-foreclosure complaint as abandoned and granting the plaintiff's cross-motion to vacate a conditional dismissal order and obtain a judgment of foreclosure and sale, and from the resulting judgment of foreclosure and sale.
STANDARD OF REVIEW	Questions of statutory interpretation and the application of CPLR 3215(c) were reviewed as matters of law.
PRECEDENTIAL VALUE	published
PARTIES	Mohammed Manzurul Islam v. U.S. Bank National Association

TOPICS

default civil procedure appellate procedure foreclosure mortgages

PRACTICE AREAS

mortgage foreclosure civil procedure appellate procedure

QUESTIONS PRESENTED

1. Whether the appeal from the May 25, 2022 order had to be dismissed because the right to a direct appeal from the order terminated upon entry of the judgment of foreclosure and sale.
2. Whether the foreclosure complaint against the defendant had to be dismissed as abandoned under CPLR 3215(c) because the plaintiff failed to take proceedings for entry of a default judgment within one year after the defendant's default.
3. Whether the plaintiff's request for judicial intervention seeking a foreclosure settlement conference tolled or satisfied the one-year period under CPLR 3215(c).
4. Whether the plaintiff established sufficient cause to avoid dismissal under CPLR 3215(c) by offering a reasonable excuse for the delay.

HOLDINGS

1. The appeal from the May 25, 2022 order must be dismissed because the right to a direct appeal from that order terminated when the judgment of foreclosure and sale was entered; the issues raised on the order were reviewable on the appeal from the judgment.
2. When a plaintiff fails to take proceedings for entry of a default judgment within one year after a defendant's default, CPLR 3215(c) requires dismissal of the claim as abandoned unless sufficient cause is shown.
3. The plaintiff's request for judicial intervention seeking a foreclosure settlement conference did not constitute proceedings for entry of judgment and did not toll the one-year deadline under CPLR 3215(c).
4. The plaintiff failed to establish sufficient cause to avoid dismissal because its change of attorney was not a reasonable excuse for the delay, particularly where the change occurred after the one-year period had expired.

KEY QUOTATIONS

> *“The language of CPLR 3215(c) is not, in the first instance, discretionary, but mandatory, inasmuch as courts 'shall' dismiss claims (CPLR 3215[c]) for which default judgments are not sought within the requisite one-year period, as those claims are then deemed abandoned”* ([*1])

> *“As such, the filing of the request for judicial intervention did not constitute the taking of proceedings for the entry of a judgment pursuant to CPLR 3215(c) and did not toll the one-year deadline to do so”* ([*2])

FACTUAL BACKGROUND

The plaintiff commenced a mortgage-foreclosure action in 2012 involving residential property in Brooklyn. The defendant was served under CPLR 308(2), but he did not timely answer or move for relief; service was complete on June 17, 2012, and his default occurred on July 17, 2012. The plaintiff did not move for leave to enter a default judgment and for an order of reference until March 2015, more than one year after the default. The plaintiff later attributed the delay in part to a change of attorney, but that change occurred after the statutory one-year period.

PROCEDURAL HISTORY

The plaintiff commenced a mortgage-foreclosure action in 2012. The defendant did not timely answer or otherwise appear. The plaintiff moved for a default judgment and an order of reference in March 2015, and the Supreme Court granted that motion in June 2015. After the Supreme Court conditionally directed dismissal as abandoned in 2019, the defendant moved in 2021 for dismissal under CPLR 3215(c), while the plaintiff cross-moved to vacate the conditional dismissal and obtain a judgment of foreclosure and sale. The Supreme Court denied the defendant's motion and granted the plaintiff's cross-motion in May 2022.

DISPOSITION

reversed

CASES CITED

- Matter of Aho, 39 NY2d 241, 248
- US Bank N.A. v. Pane, 237 AD3d 1237, 1238-1239
- Deutsche Bank Natl. Trust Co. v. O'Connor, 223 AD3d 872, 874
- Wells Fargo Bank v. Aucapina, 193 AD3d 1106, 1109-1110
- HSBC Bank USA, N.A. v. Whaley, 197 AD3d 1245, 1247-1248
- HSBC Bank USA, N.A. v. Lem, 194 AD3d 1027, 1029
- Chase Home Fin., LLC v. Morris, 235 AD3d 827, 829
- Deutsche Bank Natl. Trust Co. v. Bakarey, 198 AD3d 718, 722