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

HSBC Bank USA, National Association v. Grinage

2025 NY Slip Op 07002 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2025) · No. 2023-04572 · Decided December 17, 2025

SUMMARY

The Appellate Division, Second Department affirmed an order in a mortgage foreclosure action that added a defendant, permitted entry of a default judgment, and granted an order of reference. The court held that the defendants' motion to vacate a prior order under CPLR 5015(a)(1) was untimely and unsupported by a reasonable excuse, and that dismissal for failure to join a necessary party was unwarranted.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Valerie Brathwaite Nelson, J.P.; Deborah A. Dowling, J.; Janice A. Taylor, J.; Phillip Hom, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	December 17, 2025
DOCKET	2023-04572
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants Theron Grinage and Desiree Reid appealed from an order granting the mortgage plaintiff's requests to add Reid as a defendant, enter a default judgment, and obtain an order of reference, while denying defendants' cross-motion to vacate a prior order and dismiss the complaint against Reid.
STANDARD OF REVIEW	Review of whether the Supreme Court properly denied relief under CPLR 5015(a)(1) and properly allowed joinder and foreclosure-related relief; the opinion applied the requirements for vacatur of a default and reviewed the lower court's order for error.
PRECEDENTIAL VALUE	published

PARTIES	Theron Grinage, Desiree Reid v. HSBC Bank USA, National Association

TOPICS

foreclosure · default judgment · joinder · motions to dismiss · appellate procedure

PRACTICE AREAS

mortgage foreclosure · civil procedure · appellate procedure · real estate remedies

QUESTIONS PRESENTED

1. Whether defendants' motion under CPLR 5015(a)(1) to vacate the December 2, 2019 order was timely and supported by a reasonable excuse and a potentially meritorious opposition.
2. Whether vacatur of the December 2, 2019 order was warranted in the interests of substantial justice.
3. Whether the foreclosure complaint had to be dismissed against Reid because she was not originally joined as a necessary party.

HOLDINGS

1. The motion was properly denied because it was made more than one year after service of the order with notice of entry, and defendants in any event failed to demonstrate a reasonable excuse for their default or a potentially meritorious opposition.
2. Defendants failed to demonstrate that vacating the December 2, 2019 order was warranted in the interests of substantial justice.
3. Dismissal of the complaint insofar as asserted against Reid was not required or warranted under the circumstances.

KEY QUOTATIONS

> *"A party seeking to vacate an order entered upon his or her default in opposing a motion must demonstrate both a reasonable excuse for the default and a potentially meritorious opposition to the motion"* (*2)

FACTUAL BACKGROUND

Grinage executed a $445,500 note in 2006 secured by a mortgage on residential property in Arverne and later executed a loan modification agreement. He conveyed the premises to himself and Desiree Reid in 2008, and thereafter allegedly defaulted on the modified loan obligations. HSBC, to which the mortgage was ultimately assigned, commenced foreclosure proceedings in 2013 and later sought to add Reid as a defendant and obtain default judgment and an order of reference.

PROCEDURAL HISTORY

HSBC commenced a mortgage foreclosure action in 2013. After the plaintiff failed to oppose Grinage's motion to dismiss the complaint as abandoned, the Supreme Court dismissed the action against him in 2016; the court later granted HSBC's unopposed motion to vacate that dismissal in 2019. In 2022, defendants moved to vacate the 2019 order and sought dismissal against Reid for failure to join her as a necessary party. The Supreme Court denied defendants' cross-motion, granted HSBC's requests for default judgment and an order of reference, and referred the matter to a referee. The Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Deutsche Bank Natl. Trust Co. v. Segal, 200 A.D.3d 852, 853
- Mazin v. Dangelo, 206 A.D.3d 986, 987
- Redding v. JQ III Assoc., LLC, 204 A.D.3d 849, 849
- Bank of N.Y. Mellon v. Taylor, 230 A.D.3d 457, 459
- JPMorgan Chase Bank, N.A. v. Almazon, 215 A.D.3d 933, 935
- Nationstar Mtge., LLC v. Yarmosh, 208 A.D.3d 885, 887-888
- JPMorgan Chase Bank, N.A. v. Dev, 176 A.D.3d 691, 693
- CitiMortgage, Inc. v. Maldonado, 171 A.D.3d 1007, 1008
- U.S. Bank Trust, N.A. v. Gedeon, 181 A.D.3d 745, 747-748
- Central Mtge. Co. v. Davis, 149 A.D.3d 898, 900