

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

Nationstar Mtge., LLC v. Nuzzo

2026 NY Slip Op 00138 (Supreme Court of the State of New York Appellate Division Second Judicial
Department 2026) · No. 2024-01731 · Decided January 14, 2026

SUMMARY

The Appellate Division, Second Department, affirmed an order and judgment of foreclosure and sale in favor of Nationstar Mortgage, LLC. The court held that title to the property vested in the devisee at the decedent's death, so the foreclosure action was properly brought against Tina Nuzzo individually and the decedent's estate was not a necessary party because no deficiency judgment was sought.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; Paul Wooten, J.; William G. Ford, J.; Phillip Hom, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	January 14, 2026
DOCKET	2024-01731
DISPOSITION	affirmed
PROCEDURAL POSTURE	Tina Nuzzo appealed from an order and judgment of foreclosure and sale that confirmed a referee's report, denied her cross-motion to dismiss the complaint, and directed the sale of the subject property.
PRECEDENTIAL VALUE	published
PARTIES	Tina Nuzzo v. Nationstar Mortgage, LLC

TOPICS

- [foreclosure](#) [mortgages](#) [probate procedure](#) [appellate procedure](#) [title disputes](#)

PRACTICE AREAS

- [real estate law](#) [mortgage foreclosure](#) [probate and estates](#) [appellate procedure](#)

QUESTIONS PRESENTED

1. Whether the mortgage foreclosure action was a nullity because the decedent was not named as a defendant and Nuzzo was named individually and as proposed executor.
2. Whether the decedent's estate was a necessary party to the foreclosure action when the property had been devised to Nuzzo and no deficiency judgment was sought.

HOLDINGS

1. The foreclosure action was properly commenced against Nuzzo in her individual capacity because title to real property devised under a decedent's will generally vests in the beneficiary at the moment of the testator's death, not at probate.
2. The decedent's estate was not a necessary party because the plaintiff did not seek a deficiency judgment.

KEY QUOTATIONS

*“Moreover, as no deficiency judgment was sought, the decedent's estate was not a necessary party” ([*2])*

FACTUAL BACKGROUND

Maria Algeria was the sole owner of the subject property when she died in 2014. Her will devised the property to Tina Nuzzo and named Nuzzo executor of the estate. In March 2015, Wells Fargo Bank, N.A., the plaintiff's predecessor, commenced a foreclosure action against Nuzzo individually and as proposed executor, without naming Algeria as a defendant. No deficiency judgment was sought.

PROCEDURAL HISTORY

Wells Fargo Bank, N.A., the plaintiff's predecessor in interest, commenced a mortgage foreclosure action in March 2015 against Nuzzo, individually and as proposed executor of the estate of Maria Algeria. After the plaintiff moved to confirm the referee's report and for a judgment of foreclosure and sale, Nuzzo cross-moved to dismiss. The Supreme Court, Suffolk County, denied the cross-motion and entered an order and judgment of foreclosure and sale dated November 2, 2023. The Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- US Bank Trust, N.A. v Gaines, 189 AD3d 1312, 1313
- Matter of Raccioppi, 128 AD3d 838, 840
- Bank of N.Y. Mellon v Rose, 210 AD3d 846, 847
- Citimortgage, Inc. v Warsi, 212 AD3d 592, 594

OPINION

PER CURIAM.

Nationstar Mtge., LLC v Nuzzo (2026 NY Slip Op 00138) Nationstar Mtge., LLC v Nuzzo 2026 NY Slip Op 00138 Decided on January 14, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on January 14, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department FRANCESCA E. CONNOLLY, J.P.

PAUL WOOTEN WILLIAM G. FORD PHILLIP HOM, JJ. 2024-01731 (Index No. 602625/15) [*1]Nationstar Mortgage, LLC, etc., respondent, v Tina Nuzzo, etc., appellant, et al., defendants. Scheyer & Stern, LLC, Nesconset, NY (Fredrick P. Stern of counsel), for appellant. LOGS Legal Group LLP, Rochester, NY (Virginia Grapensteter of counsel), for respondent. DECISION & ORDER In an action to foreclose a mortgage, the defendant Tina Nuzzo appeals from an order and judgment of foreclosure and sale (one paper) of the Supreme Court, Suffolk County (Thomas Whelan, J.), dated November 2, 2023.

The order and judgment of foreclosure and sale, insofar as appealed from, granted those branches of the plaintiff's motion which were to confirm a referee's report and for a judgment of foreclosure and sale, denied the cross-motion of the defendant Tina Nuzzo to dismiss the complaint, confirmed the referee's report, and directed the sale of the subject property.

ORDERED that the order and judgment of foreclosure and sale is affirmed insofar as appealed from, with costs. Maria Algeria (hereinafter the decedent) was the sole owner of the subject property when she died in 2014. Her will bequeathed the property to the defendant Tina Nuzzo and named Nuzzo as the executor of the decedent's estate.

In March 2015, the plaintiff's predecessor in interest, Wells Fargo Bank, N.A. (hereinafter Wells Fargo), commenced this action against, among others, Nuzzo, "individually and as proposed Executor of the Estate of Maria Algeria," to foreclose a mortgage encumbering the property. Wells Fargo did not purport to name the decedent as a defendant in this action.

The plaintiff subsequently moved, inter alia, to confirm a referee's report and for a judgment of foreclosure and sale. Nuzzo cross-moved to dismiss the complaint. In an order and judgment of foreclosure and sale dated November 2, 2023, the Supreme Court, among other things, granted those branches of the plaintiff's motion, denied Nuzzo's cross-motion, confirmed the referee's report, and directed the sale of the property.

Nuzzo appeals, contending that the court erred because the action purportedly was a nullity from its inception. Nuzzo's contention is without merit. "Generally, title to real property devised under the will of a decedent vests in the beneficiary at the moment of the testator's death and not at the time of probate" (US Bank Trust, N.A. v Gaines, 189 AD3d 1312, 1313 [internal quotation marks omitted]; see Matter of Raccioppi, 128 AD3d 838, 840).

As such, this action was properly [*2]commenced against Nuzzo in her individual capacity (see Bank of N.Y. Mellon v Rose, 210 AD3d 846, 847; US Bank Trust, N.A. v Gaines, 189 AD3d at 1313). Moreover, as no deficiency judgment was sought, the decedent's estate was not a necessary party (see Citimortgage, Inc. v Warsi, 212 AD3d 592, 594; Bank of N.Y. Mellon v Rose, 210 AD3d at 847).

Accordingly, we affirm the order and judgment of foreclosure and sale insofar as appealed from. CONNOLLY, J.P., WOOTEN, FORD and HOM, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court