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

U.S. Bank Trust National Association v. Pluchino

2025 NY Slip Op 07330 · No. 2023-12022 · Decided December 24, 2025

SUMMARY

The Appellate Division, Second Department, affirmed an order dismissing a mortgage foreclosure action against Julie M. Pluchino as time-barred. The court held that the six-year statute of limitations began when Citibank commenced an earlier foreclosure action in 2014 and that the successor plaintiff could not use CPLR 205-a because it was not the original plaintiff or acting on its behalf. The court also rejected challenges to the retroactive application and constitutionality of the Foreclosure Abuse Prevention Act.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Hector D. LaSalle, P.J.; Valerie Brathwaite Nelson, J.; Deborah A. Dowling, J.; Lourdes M. Ventura, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	December 24, 2025
DOCKET	2023-12022
DISPOSITION	affirmed
PROCEDURAL POSTURE	In a mortgage-foreclosure action, the plaintiff appealed from an order denying its motion for summary judgment and granting the defendant's cross-motion for summary judgment dismissing the amended complaint as time-barred.
STANDARD OF REVIEW	Summary judgment is appropriate where the movant establishes entitlement to judgment as a matter of law and the opposing party fails to raise a triable issue of fact; the Appellate Division reviewed whether the defendant established the statute-of-limitations defense prima facie and whether the plaintiff raised a triable issue in opposition.
PRECEDENTIAL VALUE	published

PARTIES	U.S. Bank Trust National Association v. Julie M. Pluchino

TOPICS

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

PRACTICE AREAS

mortgage foreclosure | civil procedure | appellate procedure | statute of limitations

QUESTIONS PRESENTED

1. Whether the 2022 foreclosure action was barred by New York's six-year statute of limitations because the mortgage debt was accelerated when Citibank commenced the 2014 foreclosure action.
2. Whether U.S. Bank Trust, as an assignee rather than the original plaintiff, could invoke the six-month savings provision in CPLR 205-a.
3. Whether the Foreclosure Abuse Prevention Act's retroactive application and constitutionality under the United States Constitution defeated the statute-of-limitations defense.

HOLDINGS

1. The foreclosure action was time-barred because the six-year limitations period began to run on the entire mortgage debt when Citibank commenced the 2014 foreclosure action, and U.S. Bank Trust commenced the new action more than six years later.
2. U.S. Bank Trust could not invoke CPLR 205-a because it was neither the original plaintiff in the prior action nor acting on behalf of the original plaintiff, Citibank.
3. The plaintiff's arguments challenging FAPA's retroactive application and constitutionality under the United States Constitution were without merit.

KEY QUOTATIONS

> *"Where the mortgage debt is accelerated, the entire balance of the debt accrues and the statute of limitations begins to run on the entire debt"* ([*2])

> *"the original plaintiff . . . may commence a new action upon the same transaction or occurrence or series of transactions or occurrences within six months following the termination"* ([*2])

FACTUAL BACKGROUND

Citibank commenced a mortgage-foreclosure action against Julie M. Pluchino and others in 2014, thereby accelerating the mortgage debt. That action was dismissed in 2021 because Citibank failed to demonstrate compliance with RPAPL 1304, and Citibank's appeal was later deemed dismissed. After the mortgage and note were assigned to U.S. Bank Trust, U.S. Bank commenced a new foreclosure action in August 2022, more than six years after the 2014 action.

PROCEDURAL HISTORY

Citibank commenced a foreclosure action in 2014. The Supreme Court dismissed that action in August 2021 for failure to establish compliance with RPAPL 1304, and Citibank's appeal was later deemed dismissed for failure to timely perfect it. After the mortgage and note were assigned to U.S. Bank Trust, U.S. Bank commenced a new foreclosure action in August 2022. The Supreme Court, Suffolk County, denied U.S. Bank's summary-judgment motion and granted Julie Pluchino's cross-motion, and the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- HSBC Bank USA v. Lem, 236 AD3d 762, 764-765
- Wilmington Trust Co. v. Yonkus, 224 AD3d 863, 864-865
- Deutsche Bank National Trust Co. v. Heitner, 226 AD3d 967, 968
- Johnson v. Cascade Funding Mortgage Trust 2017-1, 220 AD3d 929, 932
- Article 13 LLC v. Ponce De Leon Federal Bank, 2025 NY Slip Op 06536
- Van Dyke v. U.S. Bank, N.A., 2025 NY Slip Op 06537