

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

JPMorgan Chase Bank, N.A. v. Allanah

2021 NY Slip Op 07268 (N.Y. Ct. App. 2021) · No. 2018-04037; 2018-04038 · Decided December 22, 2021

SUMMARY

In this mortgage foreclosure action, the Appellate Division, Second Department dismissed an appeal from two intermediate orders granting summary judgment, striking the defendant's answer, and directing the appointment of a referee. The court held that the right to directly appeal from those orders terminated upon entry of the order and judgment of foreclosure and sale, and that the issues were reviewable on appeal from that later judgment.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Reinaldo E. Rivera, J.P.; Angela G. Iannacci, J.; William G. Ford, J.; Deborah A. Dowling, J.
JURISDICTION	New York
DECIDED	December 22, 2021
DOCKET	2018-04037; 2018-04038
DISPOSITION	dismissed
PROCEDURAL POSTURE	Habiba Allanah appealed from two orders granting the mortgagee summary judgment, striking her answer, directing an order of reference, and appointing a referee to ascertain and compute the amount due.
STANDARD OF REVIEW	The court applied the final judgment rule governing appeals from intermediate orders and CPLR 5501(a)(1), which permits review of issues raised on an appeal from the final judgment.
PRECEDENTIAL VALUE	Published appellate decision
PARTIES	Habiba Allanah v. JPMorgan Chase Bank, National Association, Federal National Mortgage Association, nonparty-respondent

TOPICS

foreclosure

summary judgment

final judgment rule

appellate procedure

real estate

PRACTICE AREAS

real estate

foreclosure

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether direct appeals from the November 30, 2017 orders remained viable after entry of the order and judgment of foreclosure and sale.
2. Whether the issues raised in the appeals from the orders could instead be reviewed on an appeal from the later order and judgment of foreclosure and sale.

HOLDINGS

1. The appeals from the orders had to be dismissed because the right of direct appeal from those orders terminated upon entry of the order and judgment of foreclosure and sale.
2. The issues raised on the appeals from the orders were brought up for review and considered on the appeal from the order and judgment of foreclosure and sale.

KEY QUOTATIONS

“The appeals from the orders must be dismissed because the right of direct appeal therefrom terminated with the entry of the order and judgment of foreclosure and sale” ([*1])

FACTUAL BACKGROUND

JPMorgan Chase Bank, National Association, brought an action to foreclose a mortgage against Anthony Allanah and others. The Supreme Court granted foreclosure-related summary judgment against Habiba Allanah, struck her answer, issued an order of reference, and appointed a referee to compute the amount due. An order and judgment of foreclosure and sale was subsequently entered.

PROCEDURAL HISTORY

In a mortgage foreclosure action, the Supreme Court, Nassau County, entered two orders on November 30, 2017, granting the plaintiff's motion for summary judgment against Habiba Allanah and related foreclosure relief. During the appeals, an order and judgment of foreclosure and sale was entered. The Appellate Division dismissed the appeals from the orders because the right of direct appeal terminated upon entry of the later order and judgment, while noting that the issues were reviewable on the appeal from that judgment.

DISPOSITION

dismissed

CASES CITED

- Matter of Aho, 39 N.Y.2d 241, 248

- Federal Natl. Mtge. Assn. v. Allanah, ___ A.D.3d ___ (decided herewith)

OPINION

JPMorgan Chase Bank, N.A. v. Allanah 2021 NY Slip Op 07268

PER CURIAM.

JPMorgan Chase Bank, N.A. v Allanah (2021 NY Slip Op 07268) JPMorgan Chase Bank, N.A. v Allanah 2021 NY Slip Op 07268 Decided on December 22, 2021 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 December 22, 2021

SUPREME COURT OF THE STATE OF NEW YORK

Appellate Division, Second Judicial Department REINALDO E. RIVERA, J.P.

ANGELA G. IANNACCI

WILLIAM G. FORD

DEBORAH A. DOWLING, JJ. 2018-04037

2018-04038 (Index No. 4700/13) [*1]JPMorgan Chase Bank, National Association, plaintiff, vAnthony Allanah, et al., defendants, Habiba Allanah, appellant; Federal National Mortgage Association, nonparty-respondent. Law Office of Maggio & Meyer, PLLC, Bohemia, NY (Holly C. Meyer of counsel), for appellant. McCalla Raymer Leibert Pierce, LLC, New York, NY (Margaret Stefandl of counsel), for nonparty-respondent. DECISION & ORDER In an action to foreclose a mortgage, the defendant Habiba Allanah appeals from two orders of the Supreme Court, Nassau County (Thomas A. Adams, J.), both entered November 30, 2017. The first order, insofar as appealed from, granted those branches of the plaintiff's motion which were for summary judgment on the complaint insofar as asserted against the defendant Habiba Allanah, to strike her answer, and for an order of reference. The second order, insofar as appealed from, granted the same relief and appointed a referee to ascertain and compute the amount due on the note. ORDERED that the appeals are dismissed, without costs or disbursements. The appeals from the orders must be dismissed because the right of direct appeal therefrom terminated with the entry of the order and judgment of foreclosure and sale in this action (see Matter of Aho, 39 NY2d 241, 248). The issues raised on the appeals from the orders are brought up for review and have been considered on the appeal from the order and judgment of foreclosure and sale (Federal Natl. Mtge. Assn. v Allanah, ___ AD3d ___ [decided herewith]; see CPLR 5501[a][1]). RIVERA, J.P., IANNACCI, FORD and DOWLING, JJ., concur. ENTER: Maria T. Fasulo Clerk of the Court