

State of New York Court of Appeals

MEMORANDUM

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 85
JPMorgan Chase Bank, National
Association,
Respondent,
v.
Ross R. Caliguri, &c.,
Appellant,
et al.,
Defendants.

Jeffrey Herzberg, for appellant.
Alan E. Schoenfeld, for respondent.

MEMORANDUM:

The judgment appealed from and so much of the Appellate Division order reviewed should be affirmed, with costs.

In this mortgage foreclosure action, defendant raised the affirmative defense of standing in his answer. Accordingly, to be entitled to summary judgment dismissing that defense, plaintiff bore the burden to demonstrate, as a matter of law, that it had standing to foreclose. There is no “checklist” of required proof to establish standing. Here, plaintiff satisfied its burden through evidence that it possessed the note when it commenced this action, including a copy of the original note endorsed in blank, and other supporting material, including an affidavit of possession based on an employee’s review of plaintiff’s business records (*see Aurora Loan Servs., LLC v Taylor*, 25 NY3d 355, 361 [2015]). In response, defendant failed to raise any factual issue as to plaintiff’s standing or the authenticity of the note.

Under these circumstances, Supreme Court did not err in denying defendant’s request for inspection of the original note. Contrary to defendant’s contention, there is no per se rule requiring the court to grant a request for inspection of the original note prior to awarding summary judgment to a plaintiff in a mortgage foreclosure action (*see id.* at 362). To the extent that cases have held or suggested otherwise, they should not be followed (*see e.g. JP Morgan Chase Bank, N.A. v Hill*, 133 AD3d 1057, 1058-1059 [3d Dept 2015]).

Defendant’s remaining contentions are without merit.

Judgment appealed from and so much of the Appellate Division order reviewed affirmed, with costs, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided December 17, 2020