

2019 IL App (2d) 180222-U  
Nos. 2-18-0222 & 2-18-0506 cons.  
Order filed March 1, 2019

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

---

IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

---

|   |   |  |
|---|---|--|
| DEUTSCHE BANK NATIONAL TRUST COMPANY,   | ) | Appeal from the Circuit Court of Du Page County. |
|   | ) |  |
| Plaintiff-Appellee,   | ) |  |
|   | ) |  |
| v.  | ) | No. 09-CH-3495                                   |
|   | ) |  |
| CARMELA ST. JOHN, STEPHEN ST. JOHN, ATG TRUST COMPANY, BRIAN WATT, SUSAN WATT, UNKNOWN OWNERS, and NONRECORD CLAIMANTS, | ) |  |
|   | ) |  |
| Defendants  | ) |  |
|   | ) |  |
| (Carmela St. John, Stephen St. John, and ATG Trust Company, Defendants-Appellants).                                     | ) | Honorable Bonnie M. Wheaton Judge, Presiding     |

---

JUSTICE SCHOSTOK delivered the judgment of the court.  
Justices Hutchinson and Jorgensen concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court’s final foreclosure judgment was not void, as it did not “supplement” an earlier void judgment and, in any event, the earlier judgment was void only in part and thus could have been validly supplemented.

¶ 2 Defendants, Carmela St. John, Stephen St. John, and ATG Trust Co., appeal the judgment of the circuit court of Du Page County, contending that its judgment of foreclosure was void. Because the judgment was not void, we affirm.

¶ 3 I. BACKGROUND

¶ 4 On August 20, 2009, plaintiff, Deutsche Bank National Trust Co., filed a complaint for foreclosure against, among others, Carmela, Stephen, and Harris Trust and Savings Bank.<sup>1</sup> Attached to the complaint was the note between the lender and Carmela and the mortgage between the lender and the trustee.

¶ 5 On July 30, 2012, the trial court entered summary judgment against Carmela and a default judgment against Stephen and the trustee. On that same date, the court entered a judgment of foreclosure and sale as to all defendants.

¶ 6 On July 16, 2014, the trustee moved to quash service of process. In response, plaintiff voluntarily moved to vacate the default judgment and the judgment of foreclosure as to the trustee only. The trial court vacated the default judgment and the judgment of foreclosure as to the trustee. It did not vacate the summary judgment or the judgment of foreclosure as to Carmela or Stephen.

¶ 7 On December 15, 2014, the trustee was properly served. Plaintiff then moved for summary judgment against the trustee. On May 23, 2017, following extended litigation, the trial court found that the issue as to the judgment amount had been determined in its July 30, 2012,

---

<sup>1</sup> Harris Trust and Savings Bank was the original trustee of a land trust, under which Carmela was the beneficiary. Eventually, ATG Trust Co. became the trustee and intervened. For clarity, we will refer generally to the “trustee.”

judgment and that the only remaining issue was to foreclose the trustee's interest in the property. Thus, the court entered summary judgment against the trustee.

¶ 8 On July 27, 2017, the trustee filed a motion to void the July 30, 2012, judgment of foreclosure and to vacate the May 23, 2017, summary judgment. In denying the motion, the trial court explained that, although it had vacated the July 30, 2012, judgment as to the trustee, that judgment remained effective as to Carmela and Stephen. It explained that, as a matter of “belts and suspenders” and “an abundance of caution,” it would be best to enter a supplemental judgment of foreclosure. The court then granted plaintiff leave to file a motion for a supplemental judgment of foreclosure. On July 28, 2017, the trial court entered a supplemental judgment of foreclosure.

¶ 9 The property was sold, and plaintiff moved for confirmation of the sale. On February 21, 2018, the trial court confirmed the sale. Stephen and the trustee filed a timely notice of appeal (No. 2-18-0222). After the denial of her postjudgment motion, Carmela filed a timely notice of appeal (No. 2-18-0506). The appeals have been consolidated.

¶ 10 **II. ANALYSIS**

¶ 11 On appeal, defendants contend that the supplemental judgment of foreclosure is void, because the July 30, 2012, judgment was void as to the trustee, the only necessary party to the foreclosure action.

¶ 12 A trial court's decision to grant a motion for summary judgment and to enter a judgment of foreclosure is reviewed *de novo*. *US Bank, National Ass'n v. Avdic*, 2014 IL App (1st) 121579, ¶ 18. However, a decision to confirm the judicial sale of the property is reviewed for an abuse of discretion. *Avdic*, 2014 IL App (1st) 121579, ¶ 18. An abuse of discretion occurs when the trial court committed a legal error or when no reasonable person would take the view adopted

by the trial court. *Avdic*, 2014 IL App (1st) 121579, ¶ 18. On appeal, we review the judgment, not the reasoning, of the trial court, and we may affirm on any basis in the record. *Avdic*, 2014 IL App (1st) 121579, ¶ 18.

¶ 13 To enter a valid judgment, a trial court must have both subject-matter jurisdiction and personal jurisdiction over the parties. *BAC Home Loan Services, LP v. Mitchell*, 2014 IL 116311, ¶ 17. A judgment entered without jurisdiction over the parties is void and may be challenged at any time. *Mitchell*, 2014 IL 116311, ¶ 17. We review *de novo* whether the trial court obtained personal jurisdiction. *Mitchell*, 2014 IL 116311, ¶ 17.

¶ 14 In this case, it is undisputed that, when the trial court entered the original judgment of foreclosure, it lacked personal jurisdiction over the trustee. However, it is equally undisputed that, when the court entered that judgment, it had personal jurisdiction over Carmela and Stephen. Moreover, the court maintained jurisdiction over Carmela and Stephen throughout the litigation, including when it entered the final judgment of foreclosure.

¶ 15 Once the trustee was properly served, the trial court had jurisdiction over the only remaining necessary party. See 735 ILCS 5/15-1501(a) (West 2016); *Deutsche Bank National Trust Co. v. Estate of Schoenberg*, 2018 IL App (1st) 160781, ¶ 18. Thus, because the court had already entered a valid judgment against Carmela and Stephen, over whom it had jurisdiction, all that remained was to enter a valid judgment against the trustee.

¶ 16 Although the trial court referred to the July 28, 2017, judgment of foreclosure as supplementing the original judgment, that was inaccurate. Indeed, the July 28 judgment reentered the judgment as to Carmela and Stephen, along with the judgment against the trustee. It did not depend upon, nor was it an extension of, the original judgment. In any event, the original judgment was void only as to the trustee; it was valid as to Carmela and Stephen. See

*People v. Mescall*, 347 Ill. App. 3d 995, 1000 (2004). Thus, the trial court would have been free to supplement the valid judgment against Carmela and Stephen with a valid judgment against the trustee.

¶ 17 Because the final judgment of foreclosure was valid, and defendants make no other argument challenging the sale, the trial court did not abuse its discretion in confirming the sale.

¶ 18 **III. CONCLUSION**

¶ 19 For the reasons stated, we affirm the judgment of the circuit court of Du Page County.

¶ 20 Affirmed.