

COURT OF APPEALS OF THE
STATE OF NEW YORK

Supreme Court (Suffolk)
Index No. 21853/2014

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In the Matter of
Gregg Lubonty,

Appellant,

Appellate Division
Docket No. 2015-10458

-against

U.S. National Bank Association, as Indenture
Trustee for American Home Mortgage
Investment Trust 2005-4A, and American
Home Mortgage Investment Trust 2005-4A,

NOTICE OF MOTION

Respondents,

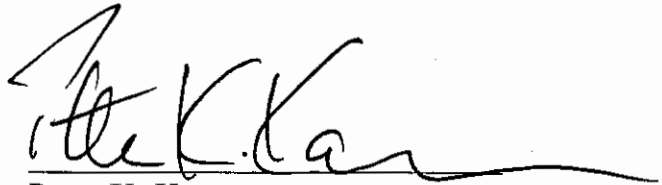
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SIRS:

PLEASE TAKE NOTICE that upon the annexed Affirmation of Peter K. Kamran, Esq. dated the 11th day of May, 2018, and upon all the papers and proceedings heretofore had herein, Gregg Lubonty, the Appellant, will move before the New York State Court of Appeals, located at 20 Eagle Street, Albany, New York 12207-1095, on the 11th day of June, 2018, or as soon thereafter as counsel may be heard, for an Order pursuant to CPLR § 5602(a)(1)(i), granting leave to appeal the decision duly entered in the office of the Clerk of the Supreme Court of the State of New York, Appellate Division, Second Judicial Department, on the 28th day of March, 2018, together with such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that, answering papers, if any, are required to be filed and served upon the undersigned on or before the return date of this motion.

Dated: May 11, 2018
Garden City, New York



Peter K. Kamran
Lester & Associates
Counsel to Appellant
600 Old Country Road, Suite 229
Garden City, New York 11530
(516) 357-9191

To:
Hinshaw & Culbertson, LLP
Counsel to Respondents
U.S. National Bank Association, as Indenture
Trustee for American Home Mortgage
Investment Trust 2005-4A, and American
Home Mortgage Investment Trust 2005-4A,
800 Third Avenue, 13th Floor
New York, New York 10022

COURT OF APPEALS OF THE
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In the Matter of
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Appellant,

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-against

U.S. National Bank Association, as Indenture
Trustee for American Home Mortgage
Investment Trust 2005-4A, and American
Home Mortgage Investment Trust 2005-4A,

AFFIRMATION

Respondents,
-----X

TO: THE HONORABLE COURT OF APPEALS:

I, Peter K. Kamran, an attorney duly admitted to practice before the Courts of the State of New York, affirm the following under penalty of perjury:

1. I am of counsel to the law firm of Lester & Associates, P.C., counsel to Gregg Lubonty, the Appellant ("Appellant") in the above-referenced matter and as such I am fully familiar with the facts of this case and the proceedings herein.
2. I respectfully submit this Affirmation in support of Appellant's Motion (the "Motion") for Leave to Appeal the Decision and Order in the above-entitled proceeding duly entered in the office of the Clerk of the Supreme Court of the State of

New York, Appellate Division, Second Judicial Department, on the 28th day of March, 2018 (the “Decision”) pursuant to CPLR § 5602(a)(1)(i).

(I) Timeliness of the Motion

3. Pursuant to 22 NYCRR § 500.22(b)(2), it is respectfully submitted that this Motion is being timely filed within 30 days of service of the Appellate Division’s Decision with Notice of Entry. CPLR § 5513(b). Notice of Entry of the Decision was served upon Appellant on April 12, 2018, by overnight courier. A copy of the Decision with Notice of Entry is annexed hereto as Exhibit “A”.

4. No prior motion for leave to appeal to the Court of Appeals was filed at the Appellate Division.

(II) Preliminary Statement

5. The underlying action was commenced pursuant to New York Real Property Actions and Proceedings Law § 1501(4) seeking to expunge a mortgage lien against real property as unenforceable due to the expiration of the statute of limitations. Through this motion Appellant is seeking this Honorable Court’s review of the Decision of the Supreme Court of the State of New York, Appellate Division, Second Department, dated March 28, 2018, and served with Notice of Entry by Respondent on April 12, 2018, via overnight courier. The Decision affirmed the Supreme Court’s dismissal of Appellant’s complaint against U.S. National Bank Association, as

Indenture Trustee for American Home Mortgage Investment Trust 2005-4A, and American Home Mortgage Investment Trust 2005-4A (the “Respondent”) upon a finding that the six-year statute of limitations for a mortgage foreclosure was tolled pursuant to CPLR § 204(a) based on Appellant’s two bankruptcy filings. See Exhibit “A”.

6. However, CPLR § 204(a) clearly provides that its tolling provisions are only applicable when a stay, such as the bankruptcy stay of 11 USC § 362(a), prevents the commencement of an action. See CPLR § 204(a). In Appellant’s case, both of Appellant’s bankruptcy filings occurred subsequent to the commencement of foreclosure actions, thus not invoking or implicating in any way the tolling provisions of CPLR § 204(a).

7. It is respectfully submitted that the Appellate Division’s Decision erred in holding that the tolling provisions of CPLR § 204(a) applied in Appellant’s case as the automatic stays pursuant to 11 USC § 362(a) never stayed Respondent’s commencement of an action as contemplated by CPLR § 204(a).

(III) Jurisdiction

8. This Court has jurisdiction of the Motion and of the proposed appeal pursuant to CPLR § 5602(a)(1)(i). The Appellate Division’s Decision affirming the order granting Respondents’ CPLR § 3211(a)(7) motion to dismiss Appellant’s

complaint, dated August 17, 2015, constitutes a final determination, which finally disposed of Appellant's complaint seeking a judgment pursuant to RPAPL § 1501(4) declaring Respondent's mortgage lien invalid and directing the Suffolk County Clerk to cancel and discharge the mortgage of record.

(IV) Question of Law

9. This appeal presents a narrow issue of law, to wit:

Whether Respondent was stayed from commencing a foreclosure action within the meaning of CPLR § 204(a), thus tolling the running of the statute of limitations, when foreclosure actions had already been commenced by Respondent prior to Appellant's bankruptcy filings.

(V) Preservation of Arguments

10. The Question of Law presented in this appeal was clearly preserved in the record. In effect, the arguments have been preserved when the Honorable Joseph Farneti issued an order (the "Order") granting Respondent's CPLR § 3211(a)(7) motion to dismiss Appellant's complaint, dated August 17, 2015 (see Record [hereinafter "R."], p. 4), when Appellant filed his Notice of Appeal (R.2-15), when Appellant perfected his appeal and further, in this Motion.

(VI) Factual Background and Procedural History of the Case

11. On August 2, 2005, Appellant executed the Mortgage in favor of

American Home Mortgage Acceptance, Inc. (“AHMA”). See R. 41-67.

12. The Mortgage was subsequently assigned by MERS as Nominee to AHMA by assignment of Mortgage dated May 31, 2007 (the “First Assignment”), and recorded in the office of the Clerk of Suffolk County, New York on the 5th day of July, 2007, in Liber M00021563 of Mortgages, at page 418. See R. 227-29.

13. Respondent alleges that the Mortgage was “pooled and securitized in the American Home Mortgage Investment Trust 2005-4A” (the “Trust”) “in accordance with the securitization transaction that closed on or about October 7, 2005 and was filed with the Securities and Exchange Commission.” See R. 76 at ¶5.

14. Respondent claims to provide evidence that the Mortgage was in fact pooled and securitized on October 7, 2005, but, instead, merely provides portions of a copy of the trust agreement which, while it shows AHMA as the servicer and Respondent as the trustee of the Trust, does not show or make reference to the Mortgage whatsoever (hereinafter the “Trust Agreement”). See R. 81-85; see also R. 86-88.

15. AHMA commenced the first foreclosure in the New York State Supreme Court, Suffolk County, on June 11, 2007, styled *American Home Mortgage Acceptance, Inc. v. Gregg Lubonty, et al.*, under Index No. 17749/2007 (the “First Foreclosure”). See R. 26 at ¶8. The First Foreclosure was based on an alleged default

in payment of the installment payment due on February 1, 2007. See *id.*; see also R. 142-43. AHMA demanded payment in full of all amounts due under the note and Mortgage thereby accelerating the Mortgage debt. R. 142-43. The First Foreclosure was dismissed by an order issued by the Honorable Ralph F. Costello, dated September 27, 2010, for failure to adhere to the requirements of CPLR § 3215(c). See *Id.*

16. On June 26, 2007 Appellant commenced the First Bankruptcy case through the filing of a voluntary Chapter 11 bankruptcy petition in the United States Bankruptcy Court, Southern District of Florida, Case No. 07-14945-AJC. See R. 76 at ¶81; see also R. 89-136. The First Bankruptcy stayed the continuation of the First Foreclosure until the First Bankruptcy was voluntarily dismissed on November 24, 2009. R. 76.

17. Thereafter, the Mortgage was assigned by AHMA to Respondent by assignment of Mortgage dated May 9, 2011, and recorded in the office of the Clerk of Suffolk County, New York on the 16th day of May, 2011 (the “Second Assignment”), in Liber M00022077 of Mortgages, at page 438. See R.230-32.

18. The second foreclosure was commenced on June 9, 2011, by Respondent and styled *U.S. Bank National Association as Indenture Trustee for American Home Mortgage Investment Trust 2005-4A v. Gregg Lubonty, et al.* Index No. 11893/2011 (the “Second Foreclosure”). See R.199-201.

19. On October 19, 2011, Appellant commenced the Second Bankruptcy through the filing of a voluntary Chapter 11 bankruptcy petition in the United States Bankruptcy Court, Eastern District of New York, Case No. 8-11-77413-ast. See R. 144-93.

20. By order of the Bankruptcy Court dated July 2, 2013, the Second Bankruptcy was converted from a case under Chapter 11 to a case under Chapter 7 of the Bankruptcy Code.

21. The Second Bankruptcy stayed the continuation of the Second Foreclosure action until November 26, 2013, when the Chapter 7 bankruptcy trustee released the Property from the bankruptcy estate. See R. 194-98.

22. On October 21, 2014, the Second Foreclosure action was dismissed due to a finding that Plaintiff was not properly served with process in the Second Foreclosure. See R. 199-201.

23. Thereafter, on November 5, 2014, Appellant commenced the instant action, pursuant to RPAPL § 1501(4), seeking a judgment declaring the Mortgage to be unenforceable due to the expiration of the statute of limitations and directing the Suffolk County Clerk to cancel and discharge the Mortgage in its records. See R. 22-68.

24. The Respondent moved to dismiss this action, arguing that the statute of

limitations was tolled by the filing of Appellant's two bankruptcy petitions and that as such the statute of limitations had not expired. See R. 73-213.

25. On August 17, 2015, the Lower Court issued an order (the "Order") granting Respondent's motion to dismiss, erroneously holding that the Appellant's two bankruptcies had tolled the statute of limitations for foreclosure of the Mortgage. See R. 5-9.

26. On or about September 21, 2015, Respondent served Appellant with a notice of entry of the Order. See R. 4-9.

27. On September 23, 2015, served a notice of appeal of the Order on Respondent. See R. 2-15.

28. On April 22, 2016, Appellant perfected his appeal by filing a Brief and Record on Appeal. A copy of the Brief for the Appellant and Record on Appeal are submitted herewith.

29. On or about September 22, 2016, Respondent submitted a brief in opposition. A copy of Respondent's opposition brief is submitted herewith.

30. On or about November 3, 2016, Appellant submitted a reply brief in further support of the appeal. A copy of the reply brief is submitted herewith.

31. The Appellate Division heard the parties' oral arguments on November 6, 2017. The Decision affirming the Order of the Supreme Court, Suffolk County was

entered March 28, 2018. See Exhibit “A” hereto.

32. The Decision with Notice of Entry was served upon Appellant on April 12, 2018. No prior leave to appeal was requested from the Appellate Division. Thus, the instant Motion for Leave to Appeal is being timely filed.

(VII) Leave to Appeal Should Be Granted Because the Appellate Division has Misinterpreted the Relevant Statute and as such this Case Presents a Question of Law of General Public Importance

33. In determining whether to grant leave to appeal, courts generally look to the novelty, difficulty, and importance of the legal and public policy issues the appeal raises. See In re Shannon B., 70 N.Y.2d 458, 462 (1987) (granting leave on an “important issue”); Town of Smithtown v. Moore, 11 N.Y.2d 238, 241 (1962) (granting leave “primarily to consider [a] question . . . of state-wide interest and application”); Neidle v. Prudential Ins. Co. of Am., 299 N.Y. 54, 56 (1949) (granting leave because of “[t]he importance of the decision” and “its far reaching consequences”); see also 22 N.Y.C.R.R. § 500.22 (leave should be granted when “the issues are novel or of public importance”); People ex rel. Wood v. Graves, 226 A.D. 714, 714 (3rd Dept. 1929) (“Motion to appeal granted as the questions of law presented are of general public importance and ought to be reviewed by the Court of Appeals.”).

34. Leave to appeal to the Court of Appeals is particularly warranted where, as here, a case presents a question of law of general public importance, far reaching

consequences, and a question of state-wide interest and application. Specifically, the interpretation (or rather, misinterpretation) of plain and unambiguous statutory language.

35. CPLR § 204(a) is a clearly crafted and unambiguous statute which provides as follows:

“Where the commencement of an action has been stayed by a court or by statutory prohibition, the duration of the stay is not a part of the time within which the action must be commenced.”

36. CPLR § 204(a) is clear that a stay issued by a court or a statutory prohibition that prevents the commencement of an action works to toll the running time for the statute of limitations.

37. However, in this case CPLR § 204(a)’s meaning has at best been misinterpreted by the courts below and at worst the courts below have engaged in impermissible judicial legislating.

38. In Appellant’s case, both of Appellant’s bankruptcy filings occurred subsequent to the commencement of foreclosure actions, thus not invoking or implicating in any way the tolling provisions of CPLR § 204(a). That is to say it was a theoretical impossibility for Respondent to have been stayed from commencing a foreclosure action because the foreclosure actions had already been commenced prior

to Appellant's bankruptcy filings.

39. "While 'it is emphatically the province and duty of the judicial department to say what the law is' (Marbury v. Madison, 1 Cranch 137 (1803)) 'courts should be extremely hesitant interpolating their notions of policy in the interstices of legislative provisions' (Finger Lakes Racing Association Inc. v. New York State Racing & Wagering Board, 45 N.Y.2d 471, 479 (1978))." People v. Lopez, 34 Misc.3d 476, 480 (Crim. Ct. Rich. County 2011).

40. Further, "[c]ourts are constitutionally bound to give effect to the expressed will of the Legislature and the plain and obvious meaning of a statute is always preferred to any curious, narrow or hidden sense that nothing but a strained interpretation of legislative intent would discern." Finger Lakes, 45 N.Y.2d at 479-480.

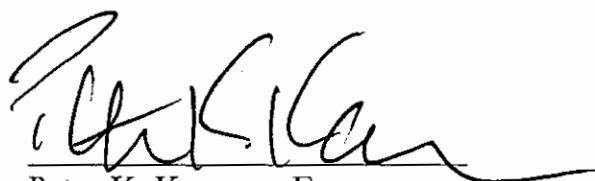
41. "If, as here, the terms of a statute are plain and within the scope of legislative power, it declares itself and there is nothing left for interpretation. To permit a court to say that the law must mean something different than the common import of its language would make the judicial superior to the legislative branch of government and practically invest it with lawmaking power." Id. "[T]he remedy for a harsh law is not in strained interpretation by the judiciary, but rather its amendment or repeal by the Legislature." Id.

42. The Supreme Court in the Order and the Appellate Division in the Decision clearly disregarded or misinterpreted the plain and unambiguous language of CPLR § 204(a). Respondent was never stayed from commencing foreclosure actions; rather Respondent was stayed from continuing already commenced foreclosure actions as a result of Appellant's bankruptcy filings.

43. Therefore, Appellant respectfully submits that since this appeal presents a question of law of general public importance, far reaching consequences, and a question of state-wide interest and application. Specifically, the interpretation (or rather, misinterpretation) of plain and unambiguous statutory language, leave to appeal should be granted by this Honorable Court.

WHEREFORE, it is respectfully requested that the Court of Appeals grant leave to appeal the Decision and reverse same for the reasons set forth herein.

Dated: May 11, 2018
Garden City, New York



Peter K. Kamran, Esq.
Lester & Associates, P.C.
Counsel to Appellant
600 Old Country Road, Suite 229
Garden City, New York 11530
(516) 357-9191

EXHIBIT "A"

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

GREGG LUBONTY,

Plaintiff,

- against -

U.S. BANK NATIONAL ASSOCIATION, AS
INDENTURE TRUSTEE FOR AMERICAN HOME
MORTGAGE INVESTMENT TRUST 2005-4A, and
AMERICAN HOME MORTGAGE INVESTMENT
TRUST 2005-4A,

Defendants.

Index No. 21853/2014

App. Index No.: 2015-10458

NOTICE OF ENTRY

PLEASE TAKE NOTICE, that the within is a true certified copy of the Decision and Order executed by the Clerk of the Court, Aprilanne Agostino of the Supreme Court of the State of New York Appellate Division: Second Judicial Department on March 28, 2018 and filed and entered with the Clerk's office on March 28, 2018.

Dated: New York, New York
April 12, 2018

HINSHAW & CULBERTSON LLP

By: 

Han Sheng Beh

800 Third Avenue, 13th Floor
New York, NY 10022
(212) 471-6200

Attorneys for Defendants

*U.S. BANK NATIONAL ASSOCIATION, AS
INDENTURE TRUSTEE FOR AMERICAN HOME
MORTGAGE INVESTMENT TRUST 2005-4A, and
AMERICAN HOME MORTGAGE INVESTMENT
TRUST 2005-4A*

TO: Lester & Associates, P.C.
Peter K. Kamran
600 Old Country Road Suite 229
Garden City, New York 11530
(516) 357-9191
Attorneys for Plaintiff

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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Argued - November 6, 2017

SHERI S. ROMAN, J.P.
JOSEPH J. MALTESE
HECTOR D. LASALLE
BETSY BARROS, JJ.

2015-10458

DECISION & ORDER

Gregg Lubonty, appellant, v U.S. Bank National
Association, etc., respondent.

(Index No. 21853/14)

Lester & Associates, P.C., Garden City, NY (Peter K. Kamran of counsel), for
appellant.

Hinshaw & Cullbertson LLP, New York, NY (Schuyler B. Kraus and Joseph G.
Silver of counsel), for respondent.

In an action pursuant to RPAPL 1501(4) to cancel and discharge of record a
mortgage, the plaintiff appeals from an order of the Supreme Court, Suffolk County (Joseph Farneti,
J.), dated August 17, 2015, which granted the defendant's motion pursuant to CPLR 3211(a)(7) to
dismiss the complaint.

ORDERED that the order is affirmed, with costs.

In 2005, the plaintiff obtained a loan from American Home Mortgage Acceptance,
Inc. (hereinafter AHMA), which was secured by a mortgage on his real property in Southampton,
Suffolk County. The plaintiff defaulted on his mortgage payments, and on June 11, 2007, AHMA
commenced an action to foreclose the mortgage. AHMA's action was subsequently dismissed as
abandoned pursuant to CPLR 3215(c). In May 2011, the mortgage and debt were transferred by
assignment of mortgage to the defendant, U.S. Bank National Association (hereinafter U.S. Bank),
which commenced a second foreclosure action on June 9, 2011. The second action was dismissed
in October 2014 for lack of personal jurisdiction.

March 28, 2018

LUBONTY v U.S. BANK NATIONAL ASSOCIATION

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In November 2014, the plaintiff commenced this action pursuant to RPAPL 1501(4) to cancel and discharge of record the subject mortgage. The complaint alleged that enforcement of the mortgage was barred by the applicable six-year statute of limitations (*see* CPLR 213[4]), which began to run on June 11, 2007, when AHMA accelerated the debt by commencing the first action to foreclose the mortgage. U.S. Bank moved pursuant to CPLR 3211(a)(7) to dismiss the complaint for failure to state a cause of action, contending that the plaintiff had filed a petition in bankruptcy shortly after the commencement of each foreclosure action, activating automatic stays which tolled the running of the statute of limitations pursuant to CPLR 204(a). In the order appealed from, the Supreme Court granted the motion. We affirm.

“In considering a motion to dismiss a complaint pursuant to CPLR 3211(a)(7), the court must accept the facts as alleged in the complaint as true, accord the plaintiff the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory” (*Wells Fargo Bank N.A. v E & G Dev. Corp.*, 138 AD3d 986, 986; *see Leon v Martinez*, 84 NY2d 83, 88). A court may consider evidentiary material submitted by a defendant in support of a motion to dismiss pursuant to CPLR 3211(a)(7) (*see* CPLR 3211[c]; *Wells Fargo Bank N.A. v E & G Dev. Corp.*, 138 AD3d at 986). “Where evidentiary material is submitted and considered on a motion to dismiss a complaint pursuant to CPLR 3211(a)(7), and the motion is not converted into one for summary judgment, the question becomes whether the plaintiff has a cause of action, not whether the plaintiff has stated one, and unless it has been shown that a material fact as claimed by the plaintiff to be one is not a fact at all and unless it can be said that no significant dispute exists regarding it, dismissal should not eventuate” (*Christ the Rock World Restoration Church Intl., Inc. v Evangelical Christian Credit Union*, 153 AD3d 1226, 1229 [internal quotation marks omitted]; *see Guggenheimer v Ginzburg*, 43 NY2d 268, 274-275).

Pursuant to RPAPL 1501(4), a person having an estate or an interest in real property subject to a mortgage can seek to cancel and discharge that encumbrance where the period allowed by the applicable statute of limitations for the commencement of an action to foreclose the mortgage had expired, provided that the mortgagee or its successor was not in possession of the subject real property at the time the action to cancel and discharge the mortgage was commenced (*see* RPAPL 1501[4]; *53 PL Realty, LLC v US Bank N.A.*, 153 AD3d 894; *Kashipour v Wilmington Sav. Fund Socy., FSB*, 144 AD3d 985, 986). An action to foreclose a mortgage has a six-year statute of limitations (*see* CPLR 213[4]). “[E]ven if a mortgage is payable in installments, once a mortgage debt is accelerated, the entire amount is due and the Statute of Limitations begins to run on the entire debt” (*EMC Mtge. Corp. v Patella*, 279 AD2d 604, 605; *see 53 PL Realty, LLC v US Bank N.A.*, 153 AD3d 894; *NMNT Realty Corp. v Knoxville 2012 Trust*, 151 AD3d 1068, 1069; *Nationstar Mtge., LLC v Weisblum*, 143 AD3d 866, 867).

Section 362 of the 1978 Bankruptcy Code (11 USC) provides that the filing of a petition in bankruptcy “operates as a stay, applicable to all entities, of . . . the commencement or continuation . . . of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title” (11 USC § 362[a][1]). The filing of a petition for protection under the Bankruptcy Code imposes “an automatic stay of any mortgage foreclosure actions” (*Mercury Capital Corp. v Shepherds Beach*, 281 AD2d 604, 605; *see* 11 USC § 362[a][1]; *Zuckerman v 234-6 W. 22 St. Corp.*, 267 AD2d 130).

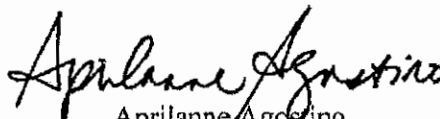
CPLR 204(a) provides that “[w]here the commencement of an action has been stayed . . . by statutory prohibition, the duration of the stay is not a part of the time within which the action must be commenced.” Pursuant to CPLR 204(a), the Bankruptcy Code’s automatic stay tolls the limitations period for foreclosure actions (*see PSP-NC, LLC v Raudkivi*, 138 AD3d 709, 711; *Zuckerman v 234-6 W. 22 St. Corp.*, 267 AD2d 130).

Here, in support of its motion to dismiss pursuant to CPLR 3211(a)(7), U.S. Bank submitted copies of the plaintiff’s petitions filed in the Bankruptcy Court, together with copies of the orders dismissing the first bankruptcy proceeding and releasing the subject property from the bankruptcy estate in the second bankruptcy proceeding, thereby establishing that, pursuant to CPLR 204(a), the statute of limitations had been tolled for over 4½ years. Therefore, U.S. Bank’s right to commence a foreclosure action in this matter was extended until December 2017. By showing that a material fact as claimed by the plaintiff was not a fact at all, U.S. Bank established its entitlement to dismissal of the action pursuant to CPLR 3211(a)(7) (*see Guggenheimer v Ginzburg*, 43 NY2d at 275).

The plaintiff’s contention that CPLR 204(a) does not apply here because the earlier foreclosure actions had already been commenced when the petitions in bankruptcy were filed is without merit (*see MLG Capital Assets v Judith Eidelkind Trust*, 275 AD2d 357).

ROMAN, J.P., MALTESE, LASALLE and BARROS, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

GREGG LUBONTY,

Plaintiff,
-against-

U.S. BANK NATIONAL ASSOCIATION, AS
INDENTURE TRUSTEE FOR AMERICAN
HOME MORTGAGE INVESTMENT TRUST
2005-4A, and AMERICAN HOME MORTGAGE
INVESTMENT TRUST 2005-4A

Defendants.

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NOTICE OF ENTRY

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