

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1142

CA 18-00353

PRESENT: SMITH, J.P., CENTRA, PERADOTTO, CURRAN, AND TROUTMAN, JJ.

NATIONSTAR MORTGAGE LLC, FORMERLY KNOWN AS
CENTEX HOME EQUITY, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

STEPHEN M. FERSACI, CELESTE A. FERSACI,
DEFENDANTS-APPELLANTS,
ET AL., DEFENDANTS.
(APPEAL NO. 2.)

LAW OFFICE OF MAURICE J. VERRILLO, P.C., ROCHESTER (LUCY A. BRADO OF
COUNSEL), FOR DEFENDANTS-APPELLANTS.

FRIEDMAN VARTOLO LLP, NEW YORK CITY (ORAN SCHWAGER OF COUNSEL), FOR
PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Monroe County (Daniel J. Doyle, J.), entered April 24, 2017. The order, among other things, denied the motion of defendant Stephen M. Fersaci to vacate the default judgment.

It is hereby ORDERED that said appeal insofar as taken by defendant Celeste A. Fersaci is unanimously dismissed and the order is affirmed without costs.

Memorandum: Defendants Stephen M. Fersaci and Celeste A. Fersaci appeal from an order denying a motion to vacate a default judgment (see CPLR 5015 [a] [1]). Initially, we note that only Stephen Fersaci (defendant) moved to vacate the default judgment. Inasmuch as Celeste Fersaci did not move to vacate the default judgment, she is not an aggrieved party, and thus the appeal to the extent that it was taken by her must be dismissed (see *Edgar S. v Roman*, 115 AD3d 931, 932 [2d Dept 2014]). Defendant contends that Supreme Court erred in denying the motion because he offered a reasonable excuse for the default. We reject that contention. "A party seeking to vacate an order or judgment on the ground of excusable default must offer a reasonable excuse for its default and a meritorious defense to the action" (*Wells Fargo Bank, N.A. v Dysinger*, 149 AD3d 1551, 1552 [4th Dept 2017]). Defendant failed to offer a meritorious defense, and thus we need not consider whether he offered a reasonable excuse (*cf. id.*). Defendant's remaining contentions are raised for the first time on appeal and thus are not properly before us (see *Ciesinski v Town of*

Aurora, 202 AD2d 984, 985 [4th Dept 1994]).

Entered: November 16, 2018

Mark W. Bennett
Clerk of the Court