

**IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL DIVISION**

M & T MORTGAGE CORP.,	:	
	:	
Plaintiff	:	
	:	
v.	:	No. 08-0238
	:	
STAFFORD TOWNSEND and	:	
BERYL R. TOWNSEND,	:	
	:	
Defendants	:	

Brian H. Smith, Esquire	Counsel for Plaintiff
William G. Schwab, Esquire	Counsel for Defendants

MEMORANDUM OPINION

Serfass, J. - August 24, 2012

On January 25, 2008, Plaintiff, M & T Mortgage Corp., commenced an action to quiet title against Defendants, Stafford Townsend and Beryl R. Townsend, seeking to record an executed copy of a mortgage against a parcel of real property owned by said Defendants and situated at 875 Towamensing Trail, Albrightsville, Pennsylvania. In the alternative, Plaintiff sought to impose an equitable lien on the same real property in the amount of the outstanding balance on a loan taken out by Defendants in order to purchase that property. After a non-jury trial before the undersigned, we issued a memorandum opinion and verdict on December 30, 2011, granting Plaintiff's request to impose an equitable lien on Defendants' real property. Defendants filed exceptions to that verdict on January 26, 2012.

After oral argument thereon and careful review of the briefs submitted by the parties, we issued an order dated March 30, 2012 and docketed on April 2, 2012 denying Defendants' exceptions.

Defendants have appealed our order of March 30, 2012. In their "Concise Statement of Errors Complained of on Appeal", Defendants contend that we erred in the following respects:

- a. By finding that Plaintiff had standing so as to have an equitable lien imposed where Plaintiff did not own any note or mortgage on the subject property;
- b. By finding that Plaintiff suffered an injury in fact;
- c. By finding that Plaintiff was an aggrieved party for the purposes of determining standing;
- d. By finding that Plaintiff did not violate the discharge injunction of the United States Bankruptcy Code, 11 U.S.C. § 524 (j), by seeking to have an equitable lien imposed against the subject property where a bankruptcy discharge had been granted; and
- e. By finding that Plaintiff could hold an equitable lien in property held by Defendants as a tenancy in the entirety where Beryl Townsend did not sign a promissory note in connection with the loan.

The issues of standing, discharge through bankruptcy and the imposition of an equitable lien were addressed seriatim in

our memorandum opinion of December 30, 2011. We believe that our reasoning with regard to each matter complained of on appeal was thoroughly discussed in that opinion and requires no further explication. Accordingly, we have attached a copy of our memorandum opinion of December 30, 2011 for the convenience of the Superior Court. We submit that Defendants' appeal is without merit and we respectfully request that our order dated March 30, 2012 and filed on April 2, 2012 be affirmed accordingly.

BY THE COURT:

Steven R. Serfass, J.