

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

WELLS FARGO BANK, N.A.,	:	
	:	
Plaintiff	:	
	:	
v.	:	No. 13-0084
	:	
SCOTT S. STROUP, KAREN J.	:	
STROUP, and MIKE JOHANNES,	:	
	:	
Defendants	:	

Kimberly Bonner, Esquire	Counsel for Plaintiff
Scott S. Stroup	Pro Se
Karen J. Stroup	Pro Se
Mike Johannes	Pro se

MEMORANDUM OPINION

Serfass, J. - January 17, 2017

Defendants, Scott S. Stroup, Karen J. Stroup, and Mike Johannes (hereinafter "Defendants"), have appealed from the Order of this Court dated December 2, 2016 which denied their "Motion to Set Aside Sheriff Sale and for Equitable Relief in Rem." We file the following Memorandum Opinion pursuant to Pennsylvania Rule of Appellate Procedure 1925(a) and recommend that Defendants' appeal be dismissed for the reasons set forth hereinafter.

FACTUAL AND PROCEDURAL HISTORY

On January 11, 2013, Plaintiff, Wells Fargo Bank, N.A. (hereinafter "Plaintiff"), filed a complaint in mortgage

foreclosure alleging that Defendants, Scott and Karen Stroup, executed a mortgage on December 5, 2009 concerning real estate situated at 705 Hahns Dairy Road, Palmerton, Carbon County, Pennsylvania. The complaint was duly served via sheriff on January 17, 2013.

Based upon Defendants' failure to file a responsive pleading, a judgment by default was entered in favor of Plaintiff in the amount of two hundred twenty-nine thousand three hundred thirty-four dollars and eighty-three cents (\$229,334.83) on April 24, 2013. Plaintiff thereafter proceeded with filing a writ of execution and a sheriff's sale was scheduled for March 14, 2014. Defendants Stroup filed a Chapter 7 bankruptcy proceeding in the United States Bankruptcy Court for the Middle District of Pennsylvania on February 13, 2014. Relief from the bankruptcy automatic stay was granted via order dated July 28, 2014, thereby terminating the stay as it affected Plaintiff's interest in the subject property.

Plaintiff re-filed its writ of execution and, on October 14, 2016, the subject property was sold at sheriff's sale. On October 28, 2016, Defendant, Scott S. Stroup, filed the underlying "Motion to Set Aside Sheriff Sale and for Equitable Relief 'In Rem'" seeking to strike the sale.

On December 5, 2016, following oral argument at which Defendants failed to appear, this Court denied the aforesaid motion. On December 21, 2016, Defendants filed a timely notice of appeal.

On December 22, 2016, this Court entered an Order directing Defendants to file of record and serve upon the undersigned, within twenty-one (21) days, a concise statement of the matters complained of on appeal pursuant to Pennsylvania Rule of Appellate Procedure 1925(b).

DISCUSSION

We submit that no issues have been preserved for appellate review in this matter. Defendants have failed to comply with our December 22, 2016 order directing them to file a concise statement of matters complained of on appeal within twenty-one (21) days. In fact, no such statement has been filed to date.

It is the well-settled law of this Commonwealth that "[i]n order to preserve their claims for appellate review, [a]ppellants must comply whenever the trial court orders them to file a Statement of Matters Complained of on Appeal pursuant to Pa.R.A.P. 1925. Any issues not raised in a Pa.R.A.P. 1925(b) statement will be deemed waived." Commonwealth v. Hill, 16 A.3d 484, 494 (Pa. 2011) (quoting Commonwealth v. Lord, 719 A.2d 306, 309 (Pa. 1998); *see also* Pa.R.A.P. 1925(b)(4)). See also Hess

v. Fox Rothschild, L.P., 925 A.2d 798 (Pa. Super. 2007) (failure to comply with trial court's order to file concise statement of matters complained of on appeal will result in waiver of all issues).

In the instant matter, Defendants have failed to file any statement of the matters complained of on appeal. Accordingly, they have waived any and all issues for appellate review.

CONCLUSION

Based upon the foregoing, we respectfully recommend that that the instant appeal be dismissed as no issues have been properly preserved for review by the Honorable Superior Court.

BY THE COURT:

Steven R. Serfass, J.