

BANK OF AMERICA, N.A. V. LIPPER

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**BANK OF AMERICA, N.A., as successor
by merger to BAC HOME LOANS
SERVICING, LP, f/k/a COUNTRYWIDE
HOME LOANS, INC.**
Plaintiff-Appellee,
v.
PAMELA L. LIPPER,
Defendant-Appellant.

No. 32,469

COURT OF APPEALS OF NEW MEXICO

May 16, 2013

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Valerie M.
Huling, District Judge

COUNSEL

Richard Leverick, Albuquerque, NM, for Appellee

Pamela L. Lipper, Albuquerque, NM, Pro Se Appellant

JUDGES

JAMES J. WECHSLER, Judge. WE CONCUR: MICHAEL D. BUSTAMANTE, Judge,
CYNTHIA A. FRY, Judge

AUTHOR: JAMES J. WECHSLER

MEMORANDUM OPINION

WECHSLER, Judge.

{1} Defendant Pamela Lipper appeals an order granting the Plaintiff Bank of America, N.A. a writ of assistance to have the sheriff remove Defendant from a home. In our notice of proposed summary disposition, we proposed to affirm. Defendant has filed a memorandum in opposition, which this Court has duly considered. As we do not find Defendant's memorandum persuasive, we affirm.

{2} In our notice of proposed summary disposition, we pointed out that Defendant had failed to timely appeal either the decree of foreclosure or the order confirming the sale of the property, such that these orders could no longer be appealed. *See Speckner v. Riebold*, 86 N.M. 275, 277, 523 P.2d 10, 12 (1974) (stating that in a foreclosure action, there are generally two final, appealable orders: the foreclosure decree and the subsequent order confirming the sale). We therefore stated that we would presume that those underlying orders were proper and only consider whether the district court erred in issuing the writ of assistance. We proposed to find no error.

{3} In Defendant's memorandum in opposition, she raises arguments that are directed at the underlying foreclosure action. However as she failed to timely appeal either of these two final orders, she waived any arguments with respect to the merits of the underlying foreclosure and judicial sale. Defendant's memorandum in opposition does not provide any authority to demonstrate that the writ of assistance should not have been issued under the circumstances of this case, and we therefore find no error.

{4} Accordingly, for the reasons stated in this opinion and in our notice of proposed summary disposition, we affirm.

{5} **IT IS SO ORDERED.**

JAMES J. WECHSLER, Judge

WE CONCUR:

MICHAEL D. BUSTAMANTE, Judge

CYNTHIA A. FRY, Judge