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### NBD 1818 2019, LLC v. Johnson

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[\*1]

<b>NBD 1818 2019, LLC v Johnson</b>
2022 NY Slip Op 50367(U)
Decided on May 6, 2022
Appellate Term, Second Department
Published by <a href="#">New York State Law Reporting Bureau</a> pursuant to Judiciary Law § 431.
This opinion is uncorrected and will not be published in the printed Official Reports.

Decided on May 6, 2022

SUPREME COURT, APPELLATE TERM, SECOND DEPARTMENT, 2d, 11th and 13th  
JUDICIAL DISTRICTS

PRESENT: : THOMAS P. ALIOTTA, P.J., MICHELLE WESTON, CHEREÉ A. BUGGS, JJ  
2021-288 K C

**NBD 1818 2019, LLC, Respondent,**

**against**

**Letricia D. Johnson, Appellant, Sheila Alexander, Eugene Alexander, John Doe and Jane Doe,  
Respondents.**

Letricia D. Johnson, appellant pro se. Morris Fateha, for respondent NBD 1818 2019, LLC (no brief filed).

Appeal from an order of the Civil Court of the City of New York, Kings County (Kenneth T. Barany, J.), dated May 25, 2021, deemed from a final judgment of that court entered June 23, 2021 (see CPLR 5501 [c]). The final judgment, entered pursuant to the May 25, 2021 order denying occupant's motion, in effect, to dismiss the petition and granting petitioner's cross motion for summary judgment, awarded petitioner possession in a summary proceeding commenced pursuant to RPAPL 713 (5).

ORDERED that the final judgment is affirmed, without costs.

Petitioner commenced this post-foreclosure summary proceeding (RPAPL 713 [5]) after obtaining ownership pursuant to a referee's deed, dated December 12, 2019. Occupant moved, in effect, to dismiss the petition and petitioner cross-moved for summary judgment. It

was undisputed that the referee's deed was the result of a mortgage foreclosure action commenced in Supreme Court, Kings County, in 2008. In an order dated May 25, 2021, the Civil Court denied occupant's motion and granted petitioner's cross motion, and, pursuant to that order, a final judgment was entered on June 23, 2021.

Contrary to occupant's argument on appeal, the Civil Court properly rejected her challenge to the validity of the foreclosure sale ([see Midfirst Bank v Ajala, 68 Misc 3d 134](#)[A], 2020 NY Slip Op 51019[U] [App Term, 9th & 10th Jud Dists 2020]; *JVJC Corp. v Hampton*, [\*2]66 Misc 3d 142[A], 2020 NY Slip Op 50158[U] [App Term, 2d Dept, 9th & 10th Jud Dists 2020]). Indeed, "the judgment of foreclosure and sale was final as to all issues and defenses that might have been litigated in the foreclosure action, and the Supreme Court's determination is not subject to collateral attack in the [Civil] Court" ([Nassau Homes Corp. v Shuster, 33 Misc 3d 130](#)[A], 2011 NY Slip Op 51861[U], \*1 [App Term, 2d Dept, 9th & 10th Jud Dists 2011] [internal citations omitted]; [see also Banker's Trust v Corbin, 14 Misc 3d 136](#)[A], 2007 NY Slip Op 50239[U] [App Term, 2d Dept, 2d & 11th Jud Dists 2007]). Occupant therefore presents no basis to disturb the final judgment.

Accordingly, the final judgment is affirmed.

ALIOTTA, P.J., WESTON and BUGGS, JJ., concur.

ENTER:

Paul Kenny

Chief Clerk

Decision Date: May 6, 2022

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