

**COURT OF APPEALS
DECISION
DATED AND FILED**

April 15, 2014

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2013AP150

Cir. Ct. No. 2010CV74

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

**BAC HOME LOANS SERVICING, LP, P/K/A COUNTRYWIDE HOME LOANS
SERVICING, LP,**

PLAINTIFF-RESPONDENT,

v.

BETTY JERUSALEM A/K/A MATEEN HADI BEY,

DEFENDANT-APPELLANT,

**UNKNOWN TENANTS, KABIR KARIM BEY A/K/A ERIK B. HUDSON,
P/K/A UNKNOWN SPOUSE OF BETTY JERUSALEM, S&A CAPITAL
PARTNERS, INC., CITIBANK SOUTH DAKOTA, NA,**

DEFENDANTS.

APPEAL from an order of the circuit court for Outagamie County:
NANCY J. KRUEGER, Judge. *Affirmed.*

Before Hoover, P.J., Mangerson and Stark, JJ.

¶1 PER CURIAM. Betty Jerusalem, pro se, appeals an order denying motions that attempt to reopen and vacate a judgment of foreclosure in favor of BAC Home Loans Servicing, LP. To the extent we can discern Jerusalem's arguments, they are rejected and the order is affirmed.

¶2 Jerusalem claims that in May 2000, she granted a Special Power of Attorney (POA) to Dennis Schroeder, her husband at that time.¹ According to Jerusalem, the POA was limited for use in securing a loan in October 2000. In December 2006, Schroeder obtained the underlying mortgage. Schroeder died in June 2007 and Jerusalem inherited the real property subject to the mortgage.

¶3 BAC subsequently filed a complaint for foreclosure. In her answer, Jerusalem raised several affirmative defenses, including a claim that Schroeder lacked authority to sign the mortgage on her behalf using the May 2000 POA. The circuit court rejected Jerusalem's arguments and entered a judgment of foreclosure. The court specifically determined that the POA gave Schroeder authority to sign the 2006 mortgage on Jerusalem's behalf.

¶4 Jerusalem appealed the judgment, arguing the circuit court lacked jurisdiction over her. We summarily affirmed the judgment. *See BAC Home Loans Servicing, LP v. Jerusalem*, No. 2011AP580, unpublished op. and order (WI App Jan. 4, 2012). Jerusalem then filed a document entitled "Administrative

¹ We note that Jerusalem's brief generally lacks citation to the record on appeal. *See* WIS. STAT. RULE 809.19(1)(e). A reviewing court need not sift the record for facts to support an appellant's contentions. *Keplin v. Hardware Mut. Cas. Co.*, 24 Wis. 2d 319, 324, 129 N.W.2d 321 (1964). Failure of a person to conform to a requirement of RULE 809.19 is grounds for dismissal. *See* WIS. STAT. RULE 809.83(2). We nevertheless reach the merits of the appeal.

All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

Notice; In the Nature of Writ of Error Coram Nobis & A Demand for Dismissal or State the Proper Jurisdiction” and, subsequently, a “Motion to Vacate Void Judgment.” Jerusalem’s filings sought to reopen the judgment, alleging the circuit court lacked both subject matter and personal jurisdiction. Jerusalem also alleged BAC engaged in fraud by failing to perform as promised in the mortgage contract and providing “false” documentation to the court during the foreclosure proceedings. The circuit court denied the motions.

¶5 Jerusalem then filed the underlying WIS. STAT. § 806.07 motion for relief from judgment, along with a motion for injunctive relief “pending a declaratory judgment.” Both motions sought “a declaratory judgment as to whether or not the 2009-10 Wisconsin Statutes and Annotations Sections 1-995 are constitutional.” The circuit court denied the motions and this appeal follows.

¶6 Jerusalem renews her argument that Schroeder lacked authority to sign the mortgage on her behalf using what she contends is an invalid POA. This claim, however, was not raised in the motions that resulted in the order on appeal. An issue may not be raised for the first time on appeal. *Anderson v. Nelson*, 38 Wis. 2d 509, 514, 157 N.W.2d 655 (1968).

¶7 Even had Jerusalem raised this argument in the underlying motions, “the appealability of orders entered on motions to vacate or modify or for a rehearing on prior appealable orders or judgments depends on whether ... the issues presented in the post-judgment motion could have been reviewed on an appeal from the judgment itself.” *Mack v. Joint Sch. Dist. No. 3*, 92 Wis. 2d 476, 485, 285 N.W.2d 604 (1979) (citing *Ver Hagen v. Gibbons*, 55 Wis. 2d 21, 24, 197 N.W.2d 752 (1972)). The concern is that the post-judgment motion not be used to extend the time to appeal from a judgment or order when that time has

expired. *See Ver Hagen*, 55 Wis. 2d at 25. Thus, an order entered on a motion to modify or vacate a judgment or order is not appealable where the only issues raised by the motion were disposed of by the original judgment or order. *Id.* at 26.

¶8 Jerusalem's challenge to Schroeder's use of the POA was rejected by the circuit court in the initial foreclosure judgment and apparently abandoned in her initial appeal. Jerusalem cannot use the present appeal to challenge an argument that was rejected in the initial foreclosure proceeding. Because we lack jurisdiction to review the only issue raised on appeal, we affirm the order.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

