



MOTION TO VACATE A DEFAULT JUDGMENT SHOULD NOT HAVE BEEN GRANTED, NO EXCUSE OFFERED (SECOND DEPT).

The Second Department determined plaintiff's motion to vacate a default judgment in this foreclosure action should not have been granted:

With regard to default judgments, CPLR 3215(c) provides, in pertinent part, that "[i]f the plaintiff fails to take proceedings for the entry of judgment within one year after the default, the court shall not enter judgment but shall dismiss the complaint as abandoned, without costs, upon its own initiative or on motion." The "one exception to the otherwise mandatory language of CPLR 3215(c) is that the failure to timely seek a default on an unanswered complaint . . . may be excused if sufficient cause is shown why the complaint should not be dismissed" . . . "This Court has interpreted this language as requiring both a reasonable excuse for the delay in timely moving for a default judgment, plus a demonstration that the cause of action is potentially meritorious" . . .

Here, the plaintiff did not offer any excuse for its failure to take proceedings for the entry of a default judgment . . . for more than one year after the action was released from the foreclosure settlement conference part . . . "Where, as here, a party moving for a default judgment beyond one year from the date of default fails to address any reasonable excuse for its untimeliness, courts may not excuse the lateness and shall' dismiss the claim pursuant to CPLR 3215(c)" . . . [HSBC Bank USA, N.A. v Uddin, 2019 NY Slip Op 05649, Second Dept 7-17-19](#)