



THE REFEREE'S FAILURE TO PROVIDE NOTICE AND A HEARING TO THE DEFENDANT DID NOT REQUIRE REVERSAL OF THE JUDGMENT OF FORECLOSURE (SECOND DEPT).

The Second Department determined the referee's failure to provide notice and a hearing to the defendant in this foreclosure action did not require reversal of the judgment of foreclosure:

It is undisputed that the referee failed to provide notice to the defendant pursuant to CPLR 4313, or to hold a hearing on the issues addressed in the referee's report. However, as long as a defendant is not prejudiced by the inability to submit evidence directly to the referee, a referee's failure to notify a defendant and hold a hearing is not, by itself, a basis to reverse a judgment of foreclosure and sale and remit the matter for a hearing and a new determination of amounts owed Where, as here, a defendant had an opportunity to raise questions and submit evidence directly to the Supreme Court, which evidence could be considered by the court in determining whether to confirm the referee's report, the defendant is not prejudiced by any error in failing to hold a hearing [Bank of N.Y. Mellon v Viola, 2020 NY Slip Op 01895, Second Dept 3-18-20](#)