SUPREME COURT OF NEW JERSEY
Docket No. 36339

THE CHASE MANHATTAN BANK, a National Association, Plaintiff-Respondendent, vs. MR. and MRS. SEYMOUR JOSEPHSON, SHERRY BAGNELL and ROBERT HANSELMAN, Defendant-Appellants, and SAUL WERNER and GRACE WERNER, MATTHEW STEINFELD, KIM GAGLIARI, CORINE McLAUGHLIN, and ALEX CAPRIO, Defendants.	Civil Action ON PETITION FOR CERTIFICATION FROM A JUDGMENT OF THE SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION Docket Nos. A-4052-91T1 and A-6391-91T1F Sat Below: Coleman, Shebell and Conley, J.J.A.D.
MARYLAND NATIONAL MORTGAGE CORPORATION, Plaintiff-Respondent, vs. REBECCA LITTLEJOHN, Defendant-Appellant, and GEORGE CLAPPS, GWENDOLYN CLAPPS, STATE OF NEW JERSEY, Defendants.	

PETITION FOR CERTIFICATION

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STATEMENT OF THE CASE

On November 12, 1991, plaintiff Maryland National Mortgage Company instituted this foreclosure action after George Clapps and Gwendolyn Clapps, owners of the mortgaged property, located at 66 Oak Avenue, Irvington, New Jersey defaulted on their mortgage. Also named in the action were Ella Newborn Burwell and J. Uzzell, then tenants in possession. This was followed by plaintiff's filing of a *lis pendens* on December 9, 1991.

After the complaint was filed, defendant Rebecca Littlejohn entered into possession under a lease on the property with the Clapps dated January 3, 1992. The complaint was subsequently amended to name her as a defendant for the purpose of seeking possession.

Defendant Littlejohn filed an answer and counterclaim asserting that the Anti-Eviction Act, *N.J.S.A. 2A:18-61.1 et seq.* (hereinafter the Act) as amended in 1986 (P.L. 1986 chapter 138), affords tenants protection against ouster in foreclosure proceedings except for good cause. Defendant further asserted that plaintiff's complaint failed to establish good cause for her removal from the premises.

On plaintiff's motion for summary judgment, the trial court entered an order striking defendant Littlejohn's answer and permitting the matter to proceed to final judgment as uncontested.

On August 11, 1992, the Appellate Division granted defendant Littlejohn leave to appeal and consolidated the matter with a like

case being appealed, Chase Manhattan v. Werner, et. al., Docket No. F-9447-89. Maryland National Mortgage Co. v. George Clapps, et al., Superior Court of New Jersey, Appellate Division, Docket No. A-6391-91T1F, Consolidated with: A-4052-91T1.

On January 6, 1993, the Appellate Division held in a written opinion on the consolidated matters, that notwithstanding the 1986 amendments, the Act does not apply to foreclosing mortgagees.

Central to this litigation is the question of whether the Legislature intended to cover mortgagees when, in 1986, it added section 2A:18-61.3b to the Act. This subsection provides as follows:

> b. A person who was a tenant of a landlord in premises covered by section 2 of P.L. 1974, c.49 (C. 2A:18-61.1) may not be removed by any order or judgment for possession from the premises by the owner's or landlord's successor in ownership or possession except:
>
> (1) For good cause in accordance with the requirements which apply to premises covered pursuant to P.L. 1974, c. 49 (c.2A:18-61.1 et seq.); or
>
> (2) For proceedings in premises where federal law supersedes applicable State law governing removal of occupants; or
>
> (3) For proceedings where removal of occupants is sought by an authorized State or local agency pursuant to eminent domain or code enforcement laws and which comply with applicable relocation laws pursuant to the "Relocation Assistance Law of 1967," P.L. 1967, c. 79 (C. 52:31B-1 et seq.) and the "Relocation Assistance Act," P.L. 1971, c. 362 (C. 20:4-1 et seq.).
>
> Where the owner's or landlord's successor in ownership or possession is not bound by the lease entered into with the former tenant and may offer a different lease to the former tenant, nothing in this 1986 amendatory and supplementary act shall limit that right.

In its decision affirming the trial court's orders, the court acknowledged that the words owner's in *N.J.S.A. 2A:18:61.3b* are broad enough to include mortgagees. Despite this acknowledgment the court's analysis does not begin with a look at the plain meaning of the provision itself.[1] Instead, the opinion commences with an examination of the legislative statements which accompanied both the Senate and Assembly bills. *Chase Manhattan v. Josephson, et al, ____ N.J.Super. ___ (App.Div. 1993), Slip. Op. at 10.*

Not finding the term mortgagees in either the statements or the bills, the court next turned to the Statement of Legislative Findings and Intent. *N.J.S.A. 2A:18-61.1a.* Here again the Appellate Court found no mention that the 1986 amendments would affect mortgagees or that mortgagees property rights had been considered. Instead, the court concluded that the 1986 Legislative Findings and Intent make clear

> that a landlord or an owner who engaged in a pretext or a stratagem to circumvent the Anti-Eviction Act would no longer be tolerated because the scope of the Act was being extended to include the successor in ownership or possession of the landlord of the owner. *Id., Slip. Op. at 13.*

The court achieves this interpretation by first reading into the section on Legislative Findings *N.J.S.A. 2A:18-61.1a* the terms "a landlord or owner" despite the fact that *N.J.S.A. 2A:18-61.6d* requires that a broader definition of owner be applied (Id., Slip.Op at 13) Having thus narrowed the focus of *N.J.S.A. 2A:18-*

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[1]As discussed in Point I of this Petition, the opinion is completely devoid of any discussion as to what the Legislature might have intended when it included the three exceptions set forth in *N.J.S.A. 2A:18-61.3b.*

61.1a to the actions of a landlord or an owner, the court next concludes that

> whereas before the 1986 amendments only landlords and owners were covered by the scope of the Act, the amendments to N.J.S.A. 2A:18-61.3 extended the Act's coverage to the owner's and the landlord's successor in ownership or possession. Id. *Slip. Op.at 13)*

In yet a further narrowing of what is an extensive statement of Legislative Findings, the decision, in referring to *N.J.S.A. 2A:18-61.3b* next concludes that:

> This new language was intended to curtail the transfer of ownership or possession solely as a pretext or as a part of a stratagem to circumvent the Act. *Id.*

Limiting the intent of the 1986 amendments to be solely that of preventing landlords from engaging in specific pretexts and stratagems the court went on to hold that since foreclosure proceedings were not among the specified pretexts or stratagems, the Act therefore did not apply.

> Nowhere in the 1986 Amendments or the statements attached to the bills has it been suggested that mortgagees have become part of the pretexts or stratagems to circumvent the Act or that they otherwise abuse their status as mortgagees.

Lastly, the decision remands the Maryland National case to the trial court for the entry of an order for possession and/or ejectment thereby permitting the removal of defendant Littlejohn and her family without good cause being established under the Act.

Defendant-Petitioner now seeks review of the Appellate Division's decision.

QUESTION PRESENTED FOR REVIEW

Petitioner Rebecca Littlejohn respectfully submits the following issue for the Court's review:

May a blameless tenant be evicted solely because the landlord has defaulted on the mortgage?

ERRORS COMPLAINED OF

The petitioner submits that the Appellate Division erred in:

1) Not according plain meaning to the words contained in *N.J.S.A. 2A:18-61.3b* of the Anti-Eviction Act.

2) Not construing *N.J.S.A. 2A:18-61.3b* in conjunction with the entire enactment of which that provision is a part of.

3) Construing to *N.J.S.A. 2A:18-61.3b* a purpose already provided by existing law.

4) Failing to address and give weight to plain language Legislative Findings *N.J.S.A. 2A:18-61.1a* indicating that the overriding purpose and intent of the 1986 Amendments was to strengthen the right of blameless tenants to remain in their homes.

5) Narrowing the scope of Legislative Findings *N.J.S.A. 2A:18-61.1a* by grafting therein the terms landlords and owners and thereafter employing the statement to interpret the plain language in *N.J.S.A. 2A:18-61.3b*.

WHY CERTIFICATION SHOULD BE GRANTED

New Jersey has long had a critical shortage of decent affordable housing. *See*: Landlord-Tenant Relationship Study Commission *Interim Report* (1970). In 1974, the Legislature responded to the critical housing problems facing New Jersey tenants by enacting the Anti-Eviction Act, *N.J.S.A. 2A:18-61.1. et seq.* In the Statute, the Legislature determined that no tenant covered by the Act should be evicted unless there was (1) proof of the existence of one of the thirteen enumerated grounds for eviction and (2) a formal eviction action.

By 1986, however, the broad protections which the Act first represented had become but an empty promise for thousands of tenants being threatened with removal from their homes by powerful speculative market forces. *See: Mayes v. Jackson Tp. Rent Leveling Bd., 103 N.J. 362, 378 (1986)*(N.Y. Times article cited - App. 4). That year the Legislature, moved by the plight of its constituents, enacted a series of pro tenant amendments.[2] The legislative findings and intent statement included in the amendments indicate foremost the Legislature's concern that the shortage of housing was motivating the removal of blameless tenants for the purpose of directly or indirectly profiting from the subsequent conversion of the vacant property to higher income rental or ownership interest residential use. *N.J.S.A. 2A:18-61.1a.(a)*.

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[2] The legislature is presumed to be "thoroughly conversant with its own legislation and the judicial construction placed thereon," *Quaremda v. Allan, 67 N.J. 1, 14 (1975); c.f. Guttenberg S.& L. Ass'n. v. Rivera, 85 N.J. 617 (1981)*.

Central to this litigation is the question of whether in enacting *N.J.S.A. 2A:18-61.3b* the Legislature extended the protections of the Act, (on this occasion not against eviction but removal) to blameless persons who would otherwise be called tenants but for the existence of a foreclosure action.

That this appeal presents an issue of great public importance is underscored by the potential for displacement to which the ruling below subjects every New Jersey tenant. But its greatest impact, however, is reserved for those occupying low rent, affordable housing, minorities, the poor, the elderly and the disabled. Undoubtedly, it will be their units which mortgagees or their successors will seek to convert at foreclosure to more profitable uses. Thus, if permitted to stand, the ruling below will seriously jeopardize the future availability of housing that is affordable to low-income people. It will also increase the ranks of the homeless. Worst yet, however, to the degree that the decision below establishes foreclosure as the complete loophole, to the Act and rent control, it serves as an open invitation to the type of stratagem and pretextual activity which the 1986 amendments, to this point, have effectively curtailed.

Besides presenting major policy issues, the ruling of the Appellate Division also implicates the holding of this Court in *Guttenberg S.&L. Ass'n. v. Rivera, 85 N.J. 617 (1981)*. Finally, as this petition will demonstrate, the decision below is clearly incorrect, thus requiring the Court's intervention.

COMMENTS AS TO APPELLATE DIVISION OPINION

I. THE PLAIN LANGUAGE OF THE 1986 AMENDMENTS AND SECTION 2A:18-61.3b IN PARTICULAR REQUIRES FORECLOSING MORTGAGEES AND PURCHASERS AT FORECLOSURE SALE TO ESTABLISH GOOD CAUSE TO REMOVE A RESIDENTIAL TENANT

The question before the Court is one of Legislative intent: Whether *N.J.S.A. 2A:18-61.3b* and the 1986 amendments, as a whole, extend the protections of the Anti-Eviction Act to a person who was a tenant of a landlord in premises covered by the Act but which premises have become the subject of a foreclosure action.

In the case sub judice, the Appellate Division had as its first obligation to fully examine the language contained in *N.J.S.A. 2A:18.61.3b* toward determining its plain meaning. *Town of Morristown v. Woman's Club, 124 N.J. 605, 610 (1991).*

"If the language is plain and clearly reveals the statute's meaning, the court's sole function is to enforce the statute in accordance with those terms." *Phillips v. Curiale, 128 N.J. 608, 617-618 (1992), citing State v. Bigham, 119 N.J. 646, 651 (1990).*

Moreover, the search for the true meaning of an enactment and the intention of Legislature in enacting it also requires that the words of the section at issue be read in connection with the entire enactment of which it is an integral part. *Pakolski v. Garcia, 19 N.J. 175, 181 (1955), cited in, Guttenberg S.&.L. Ass'n. v. Rivera, supra, 85 N.J. at 624.*

Contrary to clearly established cannons of statutory construction, the court below began its analysis of the claims raised by petitioners and *amicus* Hudson County Legal Services by

examining the Legislative history of the amendments. By so doing, the court failed to engage in a thorough examination of Section 61.3b, this despite acknowledging that the "words of Section 61.3b are broad enough to include mortgagees." (Slip Op. at 14) Notwithstanding this acknowledgement, the court clearly abandoned any attempt at analyzing the plain language of the entire section at issue or of the amendments as a whole.

A. The term "owner" as used in the 1986 amendments expressly includes a purchaser at "foreclosure sale"
N.J.S.A. 2A:18-61.6(e)(1)

Central to the Appellate Division's decision is the view that the discussion in *Guttenberg S. & L. v. Rivera, supra,* concerning the term "landlord or owner" remained just as compelling after the 1986 amendments. Specifically, the court echoes the *Guttenberg* analysis that the terms are rooted in the traditional landlord and tenant relationship and that the presence of the two terms was merely designed to ensure tenant protections when the "landlord" was an agent or only a lessor of the premises. (Slip. Op. at 12-13).

Clearly the lower court did not construe section 61.3b in conjunction with the entire enactment of which that provision is a part. Unlike the version of the Act that was before this Court in 1981, the 1986 amendments define "owner" as including, but not limited to lessees, successor owner and lessee, and other successors in interest. More importantly, the 1986 Amendment

explicitly exclude purchasers at foreclosure sale from certain, but not all provisions of the Act.

Section N.J.S.A. 2A:18-61.6 provides in part:

> For the purposes of P.L.1974, c. 49 (C. 2A:18-61.1 et seq.), the term "owner" includes but is not limited to lessee, successor owner and lessee, and other successors in interest.
>
> e. An owner shall not be liable for damages pursuant to this section or section 6 of this amendatory and supplementary act or subject to a more restrictive local ordinance adopted pursuant to section 8 of this...act if:
>
> (1) Title to the premises was transferred to that owner by means of a foreclosure sale, execution sale or bankruptcy sale; and
>
> (2) Prior to the foreclosure sale...the former tenant vacated the premises after receiving eviction notice from the former owner pursuant to subsection g.(1) or h. of...C. 2A:18-61.1; and
>
> (3) The former owner retains no financial interest, direct or indirect in the premises...

N.J.S.A. 2A:18-61.6d (emphasis supplied).

The exception granted in *N.J.S.A. 2A:18-61.6e* to a purchaser at foreclosure from the obligations and liabilities otherwise imposed on "owners" indicates that in those areas where no specific exception has been granted, purchasers at foreclosure fall within the definition of "owner". Furthermore, *N.J.S.A. 2A:18-61.6d* provides that "owner" as defined therein applies to the entire Act. This makes absolutely clear that for purposes of *N.J.S.A. 2A:18-61.3b, the purchaser at a foreclosure sale is an "owner" within the meaning of the Act.* As such, the objections to the expansion of the term "owner" which the Court in *Guttenberg S. & L. v. Rivera,*

supra, 85 N.J. at 629, posed have been clearly superseded by the 1986 amendments.

Finally, it is also clear that the exceptions from the requirements of the 1986 Amendment for the purchaser at foreclosure sale are quite limited. First, the statute will not expose such purchaser to the liability and treble damages provisions of the Act *N.J.S.A. 2A:18-61.6*. Second, where the premises purchased at foreclosure sale are occupied, and a correlative relationship has not yet to be established, it is necessary to examine closely the provisions of *N.J.S.A. 2A:18-61.3b*.

B. The plain language of *N.J.S.A. 2A:18-61.3b* clearly indicates that the Legislature considered the rights of mortgagees

Other than acknowledging that the words of Section 61.3b are broad enough to cover mortgagees, the opinion below is completely silent as to the purpose and meaning of the plain language of Section 61.3b.

An examination of the plain language of Section 61.3b, particularly the last four paragraphs, makes it absolutely clear that Legislature carefully considered the property rights of mortgagees when it enacted the provision.

The court below simply does not address, or offer an explanation for the reference in Section 61.3b to a person who was a tenant. Petitioner submits that by extending coverage to persons who were tenants the Legislature had no purpose other than to extend the protection against removal to persons who had been

tenants of the foreclosed owner and who but for the absence of an attornment would enjoy the status and protection afforded tenants.

First, it must be noted that the entire section contemplates the issue of removing a person "who was a tenant of a landlord in premises covered by the Act" and continues being in possession of said premises. As set forth by this Court in *Guttenberg S.&.L. Ass'n. v. Rivera, supra, 85 N.J. 617 at 630*, "Since foreclosure cuts off the leasehold interests, the relationship between the occupants and the purchaser at the foreclosure sale can only become that of landlord and tenant if a new tenancy is created." Section 61.3b(1) does not therefore create a tenancy, it simply imposes the good cause requirements of the act to the removal of such an occupant person.

Moreover, the plain language employed in *N.J.S.A. 2A:18-61.3b(2)* creates exceptions where federal law superseded applicable state law. As was argued below by Plaintiff Maryland National Bank, in some instances, where federal mortgage insurance is involved, the premises may have to be conveyed vacant to the Federal agency after the mortgagee has purchased same at a foreclosure sale. Pb17-22 to Pb 18-1. This too concerned this Court when it decided *Guttenberg S.&.L. Ass'n. v. Rivera, supra*. As it noted then, "FHA may not accept the property and pay the insurance proceeds." *Guttenberg S.&.L. Ass'n. v. Rivera, supra, 85 N.J. at 631.*

Also unanswered by the Appellate Division's opinion is what purpose, if any, of the plain language found at Section 61.3b(3) which provides:

(3) For proceedings where removal of occupants is sought by an authorized State or local agency pursuant to eminent domain or code enforcement laws.

In *Guttenberg, supra,* the Court raised questions as to the impact that might result from extending the good cause requirements of the Act to reach foreclosures on "such traditional legal proceedings as tax sale foreclosures, condemnations and quiet title actions." *Guttenberg S.&.L. Ass'n. v. Rivera, supra, 85 N.J. at 629.* Clearly, Section 61.3b(3) responds to the Court's concerns regarding condemnation.

Similarly, the decision in *Guttenberg S.&.L. Ass'n. v. Rivera, supra,* expressed concern that a mortgagee's security interest in the collateralized property could be substantially impaired by "disadvantageous leases adversely affecting the value of the property." *Id., at 627.* The plain language of Section 61.3b expressly provides that where the "owner's or landlord's successor in ownership or possession" is not bound by the lease "entered into with the former tenant "it" may offer a different lease to the former tenant." Section 61.3b further provides that nothing in the amendatory Act shall limit that right.

The plain language in 61.3b therefore recognizes that the relationship being discussed is not that of a landlord and a tenant. Since a purchaser other than by sheriff's deed would take subject to and be automatically bound by the terms of any existing leases, *Carteret Properties v. Variety Donuts, Inc., 49 N.J.* 116, 127-128 (1967); see also: N.J.S.A. 2A:18-61.1(i) (landlord or owner

may offer reasonable changes of substance at the expiration of a lease).

C. The rationale for the decision below rests on the erroneous belief that owner purchasers were not previously covered by the Act

The Appellate Division's analysis of the statute and the legislative history concludes:

> Whereas before the 1986 amendments only landlord and owners were covered by the scope of the Act, the amendments to *N.J.S.A.A 2A:18-61.3* extend the Act's coverage to the owner's and the landlord's successor in ownership or possession. This new language was intended to curtail the transfer of ownership or possession solely as a pretext or stratagem to circumvent the Act.

Slip. Op. at 13.

This overly narrow reading of the amendments and *N.J.S.A. 2A:18-61.3*b is clearly erroneous on several grounds.

First, prior to the 1986 amendments transfers of ownership were clearly contemplated and covered by the Act. Thus section *N.J.S.A. 2A:18-61.1(1)(2)*, which pre-dates the 1986 amendments provides:

> **The owner of three or less condominium or cooperative units seeks to evict a tenant whose initial tenancy began by rental from an owner of three or less units after the master deed was recorded...**

Section *N.J.S.A. 2A:18-61.1(1)(1)*(emphasis supplied) places no limitation on whether the "owner" who is seeking removal, was the original owner or a purchaser thereafter. Moreover, the 1974 version of the Act made no provision for a purchaser to move into the premises. Section *N.J.S.A. 2A:18-61.1(1)(3)* was added in 1975

to provide a means for a purchaser of premises containing three residential units or less to acquire possession of a unit in order to personally occupy it. The Act places no time limitation on when this right may be exercised.

Similarly, *N.J.S.A. 2A:18-51*, which pre-dates the 1974 version of the Act provides: "If real estate is leased by a agent of the owner thereof, in his own name or as an agent, the owner, his assignee or grantee may terminate the tenancy as the agent might do..." Finally, purchasers have always taken subject to the rights of tenants in possession. *Carteret Properties v. Variety Donuts, Inc. supra, 49 N.J. at 128; Wood v. Price, 79 N.J.Eq. 620 (E. & A. 1911)* (Possession by a tenant amounts to notice of tenant's rights including collateral agreements).

As such, even before the 1986 amendments, a conveyance from one landlord to another was covered by the Act. Consequently, the logic of the court below is a distortion of the purpose and intent of the 1986 amendments.

The 1986 amendments sought to correct, among other things, stratagems by owners designed to circumvent the three year condominium protections provided by law. The most widely used stratagem had landlords availing themselves of *N.J.S.A. 2A:18-61.1(h)* which, prior to 1986, required a six (6) months termination notice where the owner sought to permanently retire the building from residential use. But, upon the tenants vacating, the owner failed to retire the premises and instead converted them to condominiums or high scale rentals.

The 1986 amendments put an end to such practices. In the subsection (h) situation, the amendments extended from 6 to 18 months the termination notice provision. The amendments also required landlords to register their intent to retire the premises with the New Jersey Department of Community Affairs. Failure to do so meant that the owner could not prevail in an action for possession *Sacks Realty v. Batch, 235 N.J.Super. 269 (Law Div. 1989), aff'd. 248 N.J.Super. 424 (App.Div. 1991).* The registration requirement was also intended to preclude approval of any application for condominium or cooperative conversion *(N.J.S.A. 45:22A-21 et seq.)* for such premises. The amendments also required that in order to prevail in an action for possession brought under section 61.1(h), the landlord or owner had to have secured any necessary State or local permits required for the nonresidential use contemplated. The amendments also created a presumption that no such retirement would take place if a non-residential use was not permitted under applicable zoning laws. Finally, severe damage provisions were enacted in the event that the premises were not permanently retired (merely boarding up was not "retirement" from residential use), including treble damages, return of the original tenants at rent controlled rents and fines for failure to notify purchasers of the "permanent retirement" status of the property.

None of the provisions in *N.J.S.A. 2A:18-61.3b* are implicated in the statutory scheme designed to prevent the subsection 61.1(h) pre-textual abuse. By holding that N.J.S.A. 2A:18-61.3b applies to a situation dealt with elsewhere, the court ignored substantial

portion of the provision, failed to interpret its plain language and rendered the provision superfluous.

Statutes must be read so that all parts and words are given full force and meaning, so that nothing is "inoperative, superfluous or meaningless," *State v. Reynolds, 124 N.J. 559, 564 (1991); see also N. Singer, 1A Sutherland, Statutory Construction, §46.06 (Sands, 4th ed. 1984)* (each provision of a statute should be given effect). Thus, the statute *must* be interpreted to include foreclosing mortgagees subsequent purchasers and the tenants of the former owner, in order to give full force and meaning to the words as written. *447 Associates v. Miranda*, 115 *N.J* 522, 538 (1989) (Construction of a statute that renders any part of it inoperative, superfluous or meaningless is to be avoided.)

II. REMOVAL OF RESIDENTIAL TENANTS SOLELY TO PERMIT THE MORTGAGEE OR SUCCESSOR TO PROFIT IS CONTRARY TO THE PURPOSE AND INTENT OF THE ACT AS AMENDED

A. When called upon to interpret a statute, the Court must give principal regard to its fundamental purpose. *New Jersey Builders and Managers Assn. v. Blair, 60 N.J. 330 (1972).* In addition, where a statute is remedial in nature, it must be interpreted and applied "in the light of the mischief sought to be corrected." *Illario v. Frawley, 426 F.Supp. 1132, 1137 (D.C.N.J. 1977), citing, Warner v. Goltra, 293 U.S. 155, 158, 55 S.Ct. 46, 48 (1934); Glover v. Simmons Co., 17 N.J. 313 (1955)* (manifest policy of statute is touchstone for expansion of narrow terms). As such,

the statute's provisions and their requirement of reasonableness must be applied in such a way as will "suppress the mischief and advance the remedy." *Board of Conservation and Development v. Veeder, 89 N.J.L. 561, 563 (E.&A. 1916).*

The statement of Legislative Findings and Intent accompanying the 1986 amendments indicates foremost the Legislature's concern that the shortage of housing was motivating the removal of blameless tenants for the purpose of "directly or indirectly" profiting from the subsequent conversion of the vacant property to higher income rental or ownership interest residential use. *N.J.S.A. 2A:18-61.1a.(a).* The statement further reflects a concern that this "had resulted in unfortunate attempts to displace tenants employing pretexts, stratagems "or means other than those provided pursuant to the intent of State eviction laws" designated to fairly balance and protect rights of tenants and landlords." *N.J.S.A. 2A:18-61.1a.(b).* The statement goes on to note that such devices were circumventing the intent of then existing State eviction laws by denying tenants anti-displacement protections such as those applicable to condominium conversion situations, rent control, laws, eviction notice requirements, and stays of eviction where relocation was lacking. *N.J.S.A. 2A:18-61.1a(c).*

In the matter before the Court, plaintiffs openly avowed purpose for seeking the property vacant at foreclosure is to increase its market value. This augmentation in value would occur, if at all, because under the rulings below, once vacant through foreclosure, the property sheds the requirements of the State

eviction laws and is therefore immediately available for conversion to higher income rental or condominium ownership use. In other words, the removal of tenants from foreclosed residential premises is sought only to permit the mortgagee, and or the purchaser at foreclosure sale (the landlord's successor in ownership or possession) to profit from the displacement unencumbered by the Act.

That plaintiffs' effort to remove defendant Littlejohn from the premises involves the use of a means (foreclosure) other than those which were provided by the Act or other landlord-tenant statutes is beyond dispute.

Petitioner submits that the relief which plaintiff seeks as to defendant Littlejohn is precisely the mischief which on a plain language reading the Legislature sought to curtail when it enacted the 1986 amendments. Consequently, the plain language found in *N.J.S.A. 2A:18-61a(a), (b), and (c)* compel an interpretation of *N.J.S.A. 2A:18-61.3b* which extends the good cause protections of the Act to tenants in premises undergoing foreclosure. Conversely, by establishing foreclosure as the complete loophole to the Act, other protective state statutes and local protections, the decision below will not only frustrate the legislative intent, but also serve as an open invitation to the type of stratagem and pretextual activity which the 1986 amendments, to this point, have effectively curtailed.

B. The Statement of Legislative Findings and Intent accompanying the 1986 amendments also indicates the Legislature's

commitment to maintaining the broadest protections available under State eviction laws to avoid the type of displacement referred to therein so as to minimize the loss of affordable housing, prevent homelessness, prevent emotional, physical and economic hardship on individuals resulting from displacement including family and social disruption and relocation to premises less affordable. *N.J.S.A. 2A:18-61.1a(d) and (e).* The Statement notes that the effect of displacement and the resultant loss of affordable housing is particularly severe for vulnerable seniors, the disabled, the frail, minorities, large families and single parents. *N.J.S.A. 2A:18-61.1a(d) and (e).*

Although the ruling below affects every New Jersey tenant its impact, however, will be greatest on those persons residing in low rent affordable housing. It stands to reason that it will be the lower yielding units, where the poor, the Elderly, the disabled and single parents predominate, which mortgagees or their successors will have the greatest incentive to vacate and convert to a more profitable use.

Petitioner submits therefore that the ruling below will frustrate the legislative intent reflected in the plain language of *N.J.S.A. 2A:18-61.1a(d) and (e).* Far from minimizing the loss of affordable housing and preventing homelessness, the court's ruling will serve as an invitation to displacement for profit chiefly at the expense of those vulnerable groups which the Legislature has sought to protect. *See: Tenant Protection Act of 1992, P.L. 1991, c.509 N.J.S.A. 2A:18-61.40.*

For the reasons set forth above, the plain language contained in *N.J.S.A. 2A:18-61.1a(d) and (e)* compels an interpretation of *N.J.S.A. 2A:18-61.3b* which extends the good cause protections of the Act to tenants in premises undergoing foreclosure.

CERTIFICATION

For the foregoing reasons, the judgement of the Appellate Division upholding the eviction of Rebecca Littlejohn without cause and her family should be reversed. We hereby certify that the within petition presents substantial questions, and is filed in good faith and not for purpose of delay.

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