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DATE OF DOCUMENT: _____

UNOFFICIAL COPY**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION**

NDF1, LLC,

Plaintiff,

vs.

Malgorzata Lapinski, Andrzej Lapinski,
Unknown Owners and Non-Record Claimants,

Defendants.

Case No. 2021 CH 02690

Judge James T. Derico Jr.

Cal 56

ORDER

This matter comes to be heard on Defendants Malgorzata Lapinski and Andrzej Lapinski's (the "Lapinskis") Motion for Summary Judgment. The Lapinskis argue that NDF1, LLC's (the "Plaintiff") Mortgage Foreclosure action is time-barred because: 1) the subject mortgage secures a home equity line of credit (the "HELOC") which is subject to a five (5) year statute of limitations; 2) that the statute of limitations expired prior to Plaintiff's filing of this action.

After review of the parties' pleadings and after oral argument on the Motion, this Court finds as follows:

1. The HELOC is subject to a five (5) year statute of limitations;
2. Plaintiff's failure to file the instant action within five (5) years of the Lapinskis' default under the HELOC bars the instant action. See *Markus v. Chicago Title & Trust Co.*, 27 N.E.2d 463, 465 (1940), "[W]here the debt is paid or barred by the Statute of Limitations, a mortgage being but incident to the debt, is no longer a lien on the property." Also, in *Dunas v. Metropolitan Trust Co.*, 190 N.E.2d 144, 146 (1st Dist. 1963) our Appellate Court states, "where the debt is paid or barred by the Statute of Limitations, a mortgage being but incident to the debt, is no longer a lien on the property"; and
3. Based on the Courts' holdings in *Markus* and *Dunas*, this Court concludes that Plaintiff's foreclosure action is time-barred because the HELOC the mortgage secures is no longer enforceable per the statute of limitations.

Accordingly, the Plaintiff's action is dismissed with prejudice.

ENTERED

Judge James T. Derico, Jr.

Judge

MAR 08 2024

Circuit Court - 2252

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I hereby certify that the document to which this certification is affixed is a true copy.
IRIS Y. MARTINEZ APR 18 2024
Date _____
IRIS Y. MARTINEZ
Clerk of the Circuit Court
of Cook County, IL



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Property Index Number:

09-11-201-020-0000

Legal Description:

LOT 4 IN LONG'S GLENVIEW ESTATES FIRST ADDITION, A SUBDIVISION OF PART OF THE NORTHEAST FRACTIONAL 1/4 OF SECTION 11, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS ON JANUARY 20, 1954 AS DOCUMENT NUMBER 1503661

412 Huber Ln, Glenview, IL 60025

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