

Supreme Court, Appellate Division,  
Second Department, New York.

**CITIBANK, N.A., Respondent,**  
**v.**  
**Rosario BALARIN, etc., Appellant, et al.,**  
**Defendant.**

Sept. 23, 1996.

Rosario Balarin, Staten Island, appellant pro se.

Zeichner Ellman & Krause, New York City (Philip S. Rosen and Stephen S. Ranel, of counsel), for respondent.

In an action to foreclose a mortgage, the defendant Rosario Balarin appeals from an order of the Supreme Court, Richmond County (Amann, J.), dated April 26, 1995, which, after a hearing, denied her motion, *inter alia*, to vacate a final judgment of foreclosure of the same court dated January 7, 1992.

ORDERED that the order is affirmed, without costs or disbursements.

The Supreme Court properly denied the motion of the defendant Rosario Balarin to vacate the judgment of foreclosure, as her claims had been determined by a prior motion for the same relief (*see, Martin v. City of Cohoes*, 37 N.Y.2d 162, 165, 371 N.Y.S.2d 687, 332 N.E.2d 867; *Matter of Wood*, 227 A.D.2d 638, 643 N.Y.S.2d 394) or were patently without merit. We note that her claim that her mortgage payments were covered by a disability insurance policy was litigated at a hearing in November 1994 in connection with her prior motion to vacate the judgment. In an order dated November 28, 1994, the Supreme Court, Richmond County, denied her prior motion, and her appeal from that order was dismissed by decision and order on motion of this court, dated December 14, 1995, for failure to perfect the appeal (*see*, 22 NYCRR 670.8[g]; *Bray v. Cox*, 38 N.Y.2d 350, 379 N.Y.S.2d 803, 342 N.E.2d 575).

MILLER, J.P., and O'BRIEN, SULLIVAN and FLORIO, JJ., concur.

647 N.Y.S.2d 972 (Mem), 231 A.D.2d 602

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