

**APPENDIX A**  
**COURT OF APPEALS**  
**DIVISION ONE**  
**FOR THE STATE OF ARIZONA**  
**MEMORANDUM DECISION**

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME  
COURT 111(c), THIS DECISION IS NOT  
PRECEDENTIAL AND MAY BE CITED ONLY  
AS AUTHORIZED BY RULE.

IN THE ARIZONA COURT OF APPEALS  
DIVISION ONE JP MORGAN CHASE BANK,  
*Plaintiff/Appellee,*

*v. JOHLEN and MELISSA JOHNSON,*  
*Defendants/Appellants.*

No. 1 CA-CV 19-0369 FILED 4-23-2020

Appeal from the Superior Court in Mohave  
County No. L8015CV201907011 The  
Honorable Eric Gordon, Judge AFFIRMED  
COUNSEL

Greenburg Traurig, LLP, Phoenix By  
Nicole M. Goodwin, Matthew P. Hoxsie  
*Counsel for Plaintiff/Appellee*

Melissa Johnson, Bullhead City  
*Defendant/Appellant'*

MEMORANDUM DECISION

Judge Kent E. Cattani delivered the decision of the Court, in which Presiding Judge Paul J. McMurdie and Judge Jennifer B. Campbell joined.

**C A T T A N I**, Judge:

¶1 Melissa Johnson appeals from the superior court's judgment finding her and her husband guilty of forcible detainer and awarding JPMorgan Chase Bank, National Association ("Chase") immediate and exclusive possession of a residence in Bullhead, Arizona. For reasons that follow, we affirm.

## **FACTS AND PROCEDURAL BACKGROUND**

¶2 In January 2019, Chase purchased the Johnsons' residence at a trustee's sale and promptly recorded the trustee's deed. Early the next month, Chase mailed the Johnsons a notice to vacate and posted the notice to their front door. The Johnsons did not leave, and Chase filed this forcible detainer action.

¶3 The Johnsons answered the complaint and, as relevant here, offered as an affirmative defense that Chase “[was] not the beneficiary, or the Grantee and the Trustees Deed is void and the sale must be set aside.” Chase then moved for judgment on the pleadings, which the Johnsons opposed on the basis that the trustee’s sale was void.

¶4 Relying on Chase’s superior right to possession under the trustee’s deed, the superior court found Johnson and her husband guilty of forcible detainer and entered judgment in favor of Chase for immediate possession of the property. Johnson appealed.

## DISCUSSION

¶5 Johnson agrees that Chase purchased the property for over \$60,000 at a trustee’s sale in January 2019. Her sole argument attacks the validity of the trustee’s sale: “[Chase] and the trustee are one in the same and additionally they are both beneficiary, and substituted trustee,

therefore the Trustees Deed is void and the sale must be set aside because this trustee lacked authority to conduct the sale.”

¶6 But this argument addresses the merits of title and thus is beyond the scope of a forcible detainer action. *See* A.R.S. § 12-1177(A) (“On the trial of an action of . . . forcible detainer, the only issue shall be the right of actual possession and the merits of title shall not be inquired into.”); *see also Curtis v. Morris*, 186 Ariz. 534, 534 (1996). Moreover, any challenge to the trustee’s sale must be pursued before the sale has been completed; the trustor may not challenge the completed sale based on pre-sale objections. *See* A.R.S. § 33-811(C); *BT Capital, LLC v. TD Serv. Co. of Ariz.*, 229 Ariz. 299, 301, ¶ 11 (2012). The trustee’s deed raised a presumption that the sale comported with statutory requirements, *see* A.R.S. § 33-811(B), and Johnson has offered no basis to overcome either this presumption or

waiver under § 33-811(C). Accordingly, we affirm the forcible detainer judgment.

### **CONCLUSION**

¶7 Chase requests an award of attorney's fees and costs on appeal as a sanction under A.R.S. § 12-349 and ARCAP 25. In an exercise of our discretion, we decline Chase's request for attorney's fees. As the successful party, however, Chase is entitled to an award of costs on appeal upon compliance with ARCAP 21. The forcible detainer judgment is affirmed.

**APPENDIX B**  
**SUPREME COURT**  
**STATE OF ARIZONA**  
**DISCRETIONARY REVIEW**  
**DENIED**

November 13, 2020 Supreme Court STATE OF  
ARIZONA ARIZONA STATE COURTS  
BUILDING 1501 WEST WASHINGTON  
STREET, SUITE 402 PHOENIX, ARIZONA  
85007 TELEPHONE: (602) 452-3396 JANET  
JOHNSON Clerk of the Court RE: JP MORGAN  
CHASE BANK v JOHLEN and MELISSA  
JOHNSON Arizona Supreme Court No. CV-20-  
0141-PR Court of Appeals, Division One No. 1  
CA-CV 19-0369 Mohave County Superior Court  
No. L8015CV201907011

GREETINGS: The following action was taken by  
the Supreme Court of the State of Arizona on  
November 12, 2020, in regard to the above-  
referenced cause: ORDERED: Petition for Review  
= DENIED. FURTHER ORDERED: Request for  
Attorneys' Fees (Appellee JP Morgan Chase  
Bank) = DENIED. A panel composed of Vice Chief  
Justice Timmer, Justice Gould, Justice Lopez and  
Justice Montgomery participated in the



determination of this matter. Janet Johnson,

Clerk TO: Johlen Johnson Melissa Johnson

Matthew P Hoxsie

Nicole M Goodwin

Amy M Wood

Pm

**APPENDIX C**  
**PETITIONERS**  
**OPENING BRIEF**

**Additional material  
from this filing is  
available in the  
Clerk's Office.**