

## Void Judgements; NJ Case Law

228 k386(1) k. In general.

N.J.,1977

Although there was strong likelihood that critical evidence in case could have been brought forward earlier had counsel exercised “due diligence,” reopening judgment in favor of engineering firm in action for services performed under contract with county park commission and county, some two years and seven months after trial court rendered judgment, on ground that contract had been awarded to engineering firm in return for certain illegal activities of its president was warranted by public policy against allowing recovery for breach of illegal public contract executed as part of a fraudulent scheme. R. 4:50-1(f).

[Cited 11 times for this legal issue]

Kelly v. Bell, 17 N.J.L. 270

N.J.,1839

A motion to open a judgment may, if founded on merits, be made at any time while the cause is within the power and under the control of the court, provided the party embraces the first opportunity had of presenting his case, and provided the plaintiff's rights are not thereby endangered.

[Cited 6 times for this legal issue]

Naglieri v. Trabattoni, 81 A.2d 380

N.J.Super.App.,1951

The limitations imposed by rule authorizing court to relieve a party from a final judgment for any one of five specified reasons, or, for any other reason justifying relief from operation of the judgment, are expressions of the policy of terminating litigation within a reasonable time, which is essential to the proper administration of justice. Rule 3:60-2.

[Cited 4 times for this legal issue]

Manning Engineering, Inc. v. Hudson County Park Commission, 376 A.2d 1194

N.J.,1977

One-year limitation applicable to subsection of rule providing for relief whenever there is newly discovered evidence which would probably alter judgment, order or proceeding and which by due diligence could not have been discovered in time to move for new trial does not apply to subsection which applies where there is any other reason justifying relief from operation of judgment or order, and thus request for relief pursuant to latter subsection need only be made within a reasonable time. R. 4:50-1(b, f).

[Cited 4 times for this legal issue]

Garza v. Paone, 131 A.2d 32  
N.J.Super.App.,1957

Determination of whether an application for relief of judgment is made within a reasonable time, within intendment of rule providing for relief from judgment if made within a reasonable time, rests in sound discretion of the trial court, with equitable principles constituting the guide. R.R. 4:62-2.

[Cited 3 times for this legal issue]  
Shammas v. Shammas, 88 A.2d 204  
N.J.,1952

The rule providing for relief from a final judgment or order simplifies the procedure and permits the exercise of power to open a final judgment for mistake, neglect, etc., newly discovered evidence or fraud upon motion made within a reasonable time not more than one year after entry of final judgment, and for other reasons specified in rule and for fraud upon the court, without limitation as to time. Rule 3:60-2.

[Cited 3 times for this legal issue]  
Wilford v. Sigmund Eisner Co., 80 A.2d 222  
N.J.Super.App.,1951

The one-year time limitation imposed upon a motion for relief from operation of judgment for reasons falling within subdivisions (1), (2) and (3) of the Court Rule authorizing such motion is an expression of the policy of finally concluding litigation within a reasonable time, however if a strong case of extreme hardship or injustice is shown, relief for such reasons may be allowed after one year within the more liberal dispensation of subdivision (6) of the Rule. Rule 3:60-2; Fed.Rules Civ.Proc. rule 60(b), 28 U.S.C.A.

[Cited 2 times for this legal issue]  
Bank v. Kim, 825 A.2d 566  
N.J.Super.App.,2003

If a judgment is void and, therefore, unenforceable, it is a particularly worthy candidate for relief, provided that the time lapse is not unreasonable and an innocent third party's rights have not intervened. R. 4:50-1(d).

[Cited 1 times for this legal issue]  
Pine Street Management Corp. v. East Orange City, 15 N.J.Tax 681  
N.J.Super.App.,1995

Movant seeking relief from judgment under rule for "any other reason justifying relief" must demonstrate that it has exercised requisite due diligence, as party who could have avoided judgment or order from which it seeks relief through exercise of reasonable diligence is not entitled to relief. R. 4:50-1(f).

[Cited 1 times for this legal issue]  
Baumann v. Marinaro, 471 A.2d 395

N.J.,1984

Motion to vacate filed seven days after entry of judgment was timely. R. 4:49-2.

[Cited 1 times for this legal issue]

Baumann v. Marinaro, 471 A.2d 395

N.J.,1984

Motion for relief from judgment filed three months after judgment was entered was timely. R. 4:50-1; ?R. 4:50-2.

[Cited 1 times for this legal issue]

Castiglioni v. Castiglioni, 471 A.2d 809

N.J.Super.Ch.,1984

Application for relief from final judgment must be brought within reasonable period of time and party requesting relief must show that enforcement of judgment would be unjust, oppressive, or inequitable. R. 4:50-1(f); ?R. 4:50-2.

[Cited 1 times for this legal issue]

United Pac. Ins. Co. v. Lamanna's Estate, 436 A.2d 965

N.J.Super.Law,1981

Even a void judgment may not be opened unless the court, exercising equitable powers, finds that the motion to set aside the judgment was made within a reasonable time.

[Cited 1 times for this legal issue]

Matter of Arlinghaus' Estate, 385 A.2d 904

N.J.Super.App.,1978

In approaching decision of whether judgment should be reopened, policies of expedition and finality which underlie time limitations as well as equitable considerations must be weighed. R. 4:50-2.

[Cited 0 times for this legal issue]

Gorzynski v. Humiec, 2005 WL 2364892

N.J.Super.App.,2005

Motorist's motion for relief from summary judgment, made on grounds he had a meritorious claim, was not made within a "reasonable" time after entry of judgment, even though motorist claimed that delay was necessary to have all the medical facts; motorist made motion nearly one-year after entry of judgment, and medical evidence regarding the condition of his spine and surgery to repair a herniated disc was available about four months after entry of judgment. R. 4:50-1.

[Cited 0 times for this legal issue]

State v. Womack, 679 A.2d 606

N.J.,1996

Motion made pursuant to rule providing mechanism for obtaining relief from judgment or order must be made within a reasonable time, but no specific limit is placed on when it may be brought. R. 4:50-2.

[Cited 0 times for this legal issue]

Rogan Equities, Inc. v. Santini, 672 A.2d 1281

N.J.Super.App.,1996

In some circumstances, motion to vacate void judgment can properly be denied as untimely.

[Cited 0 times for this legal issue]

Kisselbach v. County of Camden, 638 A.2d 1383

N.J.Super.App.,1994

Motion to vacate order granting summary judgment on wrongful death claims was timely despite its being filed after later entry of final judgment; ?motion was filed five days after entry of final judgment and was timely under rule which provides for relief from final judgment in exceptional cases. R. 4:50-1(f).

[Cited 0 times for this legal issue]

Heim v. Wolpaw, 638 A.2d 1373

N.J.Super.App.,1994

In personal injury action, motion for relief from judgment that merely awarded "interest," without specifying amount of prejudgment interest, could be sought within reasonable time rather than within one year inasmuch as motion was intended to resolve ambiguity that went beyond mere mistake; ?moreover, in view of fact that parties read ambiguity differently and needed time to realize problem, motion was timely when brought 18 months after entry of judgment. R. 4:50-1(a, f).

[Cited 0 times for this legal issue]

Hyland v. Kirkman, 498 A.2d 1278

N.J.Super.Ch.,1985

Where common practice judges validity of titles based upon minimum search of 60 years, 20 years is clearly reasonable time within which to challenge basis on which uncontested quiet title judgment was obtained.

[Cited 0 times for this legal issue]

State v. Singletary, 406 A.2d 1003

N.J.Super.Law,1979

Where motion to set aside judgment was filed out of time and no reason for delay in filing motion was ever advanced, public policy concerning orderly administration of justice required denial of relief sought. R. 4:50-2.

[Cited 0 times for this legal issue]

State v. Singletary, 406 A.2d 1003

N.J.Super.Law,1979

As to reopening a judgment, court rule would take precedence over statutes recognizing that after payment of forfeiture or judgment a court may order county treasurer to repay all or part of the money

and containing outside time limitation to effect that application for return of money so paid shall be made to court within four years after the recognizance shall have been declared forfeited. N.J.S.A. 2A:162-8, Laws 1923, c. 116, § 1; ?R. 4:50-2.

[Cited 0 times for this legal issue]

Matter of Arlinghaus' Estate, 385 A.2d 904

N.J.Super.App.,1978

Personal representative of deceased defendant was not entitled to vacation of judgment entered against defendant almost five and one-half years before, where trial court on two occasions had offered defendant opportunity to in effect contest the judgment but defendant had ignored court and, when compelled to litigate validity of probate court's action in federal court, action, defendant had been unsuccessful. R. 4:50-2.

[Cited 0 times for this legal issue]

Bauer v. Griffin, 250 A.2d 603

N.J.Super.Law,1969

Time in which to apply for relief from final judgment on basis of "any other reason justifying relief" from operation of judgment is limited only in terms of reasonableness. R.R. 4:62-2(f).

[Cited 0 times for this legal issue]

Koppel v. Olaf Realty Corp., 162 A.2d 306

N.J.Super.App.,1960

A judgment is subject to attack during time allowed for appeal, and right to judgment becomes vested, in sense that it is free from assault, only when time for appeal has expired.

[Cited 0 times for this legal issue]

In re Manfredini, 93 A.2d 623

N.J.Super.App.,1952

The one-year time limitation is imposed upon a motion for relief from operation of judgment for reasons falling within subdivisions (1), (2) and (3) of the court rule authorizing such motion is an expression of the policy of finally concluding litigation within a reasonable time, but if a strong case of extreme hardship or injustice is shown, relief for such reasons may be allowed after one year within the more liberal dispensation of subdivision (6) of the Rule. Rule 3:60-2(1-3, 6).

[Cited 0 times for this legal issue]

536 Broad Street Corporation v. Valco Mortgage Co., 68 A.2d 652

N.J.Super.Ch.,1949

After time for appeal has expired a judgment may not be reopened except for admission of newly discovered evidence or because of existence of some special equity that would give court discretionary power to make the order.

[Cited 0 times for this legal issue]

In re Kuser's Estate, 26 A.2d 688  
N.J.Prerog.,1942

Sound jurisprudence and “public policy” dictate that there should be finality to judgments of courts of competent jurisdiction when parties let the judgments go unchallenged by failure to exercise their right of appeal.

See publication Words and Phrases for other judicial constructions and definitions.

[Cited 0 times for this legal issue]

Reilly v. Mahoney, 19 A.2d 887  
N.J.Ch.,1941

A decree in partition suit confirming report of master, and adjudging that complainant had no interest in land and that defendants owned the whole of the land and ordering sale thereof, was not “interlocutory decree” which passed beyond control of chancery court one month after date thereof, but was “final decree” which was subject to reconsideration by Chancery Court for three months. N.J.S.A. 2:29-119.

See publication Words and Phrases for other judicial constructions and definitions.

[Cited 0 times for this legal issue]

Reilly v. Mahoney, 19 A.2d 887  
N.J.Ch.,1941

Where decree in partition suit was a final decree which was subject to reconsideration by court for three months or until January 22, 1941, and complainant on January 9, 1941, served notice of motion to vacate to be made January 14, 1941, and motion was then regularly continued until February 4, 1941, when it was argued, Chancery Court had jurisdiction on return day of notice, and did not lose jurisdiction by reason of the continuances. N.J.S.A. 2:29-119.

[Cited 0 times for this legal issue]

Pink v. Deering, 4 A.2d 790  
N.J.Sup.,1939

A nonresident debtor against whom attachment judgment was obtained was not barred by laches or estoppel from obtaining vacation of the judgment more than a year later.

[Cited 0 times for this legal issue]

Dietsch v. Smith, 136 A. 598  
N.J.Sup.,1927

District court cannot set aside judgment and grant new trial for cause other than newly discovered evidence, on application not made within 30 days. District Court Act, 2 Comp.St.1910, p. 1951, § 17.

[Cited 0 times for this legal issue]

Walker v. Anderson, 18 N.J.L. 217  
N.J.,1841

It is too late after the lapse of a year to apply to a court to open a judgment in attachment.