

Fong & Zhou Supermarket, Inc. v 1769 LLC
2020 NY Slip Op 33334(U)
September 10, 2020
Supreme Court, Kings County
Docket Number: 522419/2018
Judge: Larry D. Martin
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

At a Commercial Part 12 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, 360 Adams Street, Brooklyn, New York 11201 on the 10 day of September, 2020

PRESENT:

HON. LARRY D. MARTIN
Justice of the Supreme Court

-----X

FONG & ZHOU SUPERMARKET, INC.

Index Number: 522419/2018

Plaintiff,

ORDER AND JUDGMENT OF EJECTMENT

- against -

Premises: 8514 18th Avenue,
Brooklyn, New York 11214
(Block 6343, Lot 50)

1769 LLC,

Defendant.

-----X

This action having been commenced on November 7, 2018 upon the filing of a Summons and Complaint by Plaintiff Fong & Zhou Supermarket, Inc. ("Plaintiff") then doing business as Fong & Zhou Supermarket, located at 8514 18th Avenue Brooklyn, New York 11214 (the "Premises") under a Lease dated January 17, 2012 (NYSECF Doc. # 6) entered into with the Defendant's predecessor in interest (the "Lease"), and the Premises consisting of a total of approximately 21,000 square feet with 5,000 square feet in the basement, 5,000 square feet on the ground floor and 11,000 square feet on the second floor of the building;

AND, the Defendant having answered and moved on notice to the Plaintiff by Order to Show Cause for an Order dismissing the Complaint, declaring the Lease cancelled, terminating the Plaintiff's leasehold rights and for the issuance of a warrant of eviction;

AND, this Court having ruled pursuant to its Decision/Order dated August 20, 2020 and entered August 25, 2020 (NYSECF Doc. # 109) GRANTING Defendant's Motion to dismiss the

Complaint, declaring the Lease cancelled pursuant to the ten (10) day Notice of Cancellation, terminating the Plaintiff's leasehold rights and for the issuance of a warrant of eviction;

AND, this Court having directed Defendant to submit a writ of ejectment; it is therefore

ADJUDGED that the Complaint and all causes of action contained therein are dismissed and any and all stays vacated; and it is further

ADJUDGED that the Lease between the Plaintiff and the Defendant dated January 17, 2012 is cancelled pursuant to the Landlord's Ten (10) Day Notice of Termination dated November 13, 2018 (NYSECF Doc. # 22); and it is further

ADJUDGED that Plaintiff's leasehold rights in the Premises are terminated; and it is further

ADJUDGED that Defendant 1769 LLC, having an address c/o Allied Properties , 9322 Third Avenue, Brooklyn, New York 11209 is granted possession of the entire Premises known as and situated at 8514 18th Avenue Brooklyn, New York 11214 consisting of a total of approximately 21,000 square feet with 5,000 square feet in the basement, 5,000 square feet on the ground floor and 11,000 square feet on the second floor of the building; and it is further

ORDERED and ADJUDGED that the Kings County Sheriff located at 210 Joralemon Street Brooklyn, New York 11201, upon receipt of a certified copy of this Order and Judgment of Ejectment and payment of the proper fees, remove and eject the Plaintiff doing business as Fong & Zhou Supermarket from the Premises, and any person or entity in possession under or through the Plaintiff or Fong & Zhou Supermarket, and to place the Defendant into immediate possession of the entire Premises; and it is further

ORDERED and ADJUDGED that upon entry of this Order and Judgment of Ejectment Defendant may exercise all rights of ownership affecting the Premises and proceed to dispossess

the Plaintiff doing business as Fong & Zhou Supermarket from the Premises at 8514 18th Avenue Brooklyn, New York 11214 and remove all of the Plaintiff's property, possessions, equipment or fixtures from the Premises, subject to any restrictions on evictions which currently exist; it is therefore

ORDERED, that the Sheriff of Kings County shall forthwith cause to be served any required notices to the Plaintiff prior to the removal and ejection of the Plaintiff.

ORDERED, ADJUDGED AND DECREED that the Sheriff of Kings County or any Deputy Sheriff of the Kings County Sheriff's Office located at 210 Joralemon Street Brooklyn, New York 11201 shall forthwith proceed to eject the Plaintiff and Fong & Zhou Supermarket and any person or entity in possession of the Premises under or through the Plaintiff or Fong & Zhou Supermarket, and place the Defendant 1769 LLC in possession of the entire Premises known as and situated at 8514 18th Avenue Brooklyn, New York 11214 consisting of a total of approximately 21,000 square feet with 5,000 square feet in the basement, 5,000 square feet on the ground floor and 11,000 square feet on the second floor of the building; and it is further

ORDERED, ADJUDGED AND DECREED, that the Sheriff of the County of Kings upon obtaining access and entry to the Premises is authorized to board up and secure the entire Premises, re-key and install locking devices at the direction of and expense of the Defendant; and it is further

ORDERED, that the Sheriff of the County of Kings shall forthwith place the Defendant 1769 LLC in full possession of the entire Premises and deliver legal possession to the Defendant and/or remove all of the Plaintiff's property, possessions, equipment or fixtures from the Premises at the expense of the Defendant; and it is further

ORDERED, that the Clerk of the Court shall issue a certified copy of this Order to be indexed against the land records of the Premises; and it is further

ORDERED, that the Court shall retain jurisdiction of the action until the Defendant has recovered possession of the entire Premises by removing the Plaintiff and all of the Plaintiff's property, possessions, equipment or fixtures from the Premises.

Dated: September 10, 2020

ENTER

LDM

HON. LARRY D. MARTIN
JUSTICE OF THE SUPREME COURT