

<b>Namdar E. 106 LLC v Manna House Workshops, Inc.</b>
2026 NY Slip Op 30786(U)
March 5, 2026
Supreme Court, New York County
Docket Number: Index No. 153157/2020
Judge: Sabrina Kraus
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. SABRINA KRAUS PART 57M**

*Justice*

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**INDEX NO. 153157/2020**

NAMDAR EAST 106 LLC, 338 E 106 BH LLC,

**MOTION DATE 02/04/2026**

Plaintiffs,

**MOTION SEQ. NO. 004**

- v -

MANNA HOUSE WORKSHOPS, INC., A & A EAST 106  
LLC, AVI ISHTA

**DECISION + ORDER ON  
MOTION**

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 004) 1, 14, 32, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160

were read on this motion to/for SUMMARY JUDGMENT (AFTER JOINDER).

**BACKGROUND**

Klosed Properties, Inc. (“Klosed”) commenced this action against Manna House Workshops, Inc. (“Manna”), A & A East 106 LLC (“A & A”), and Avi Ishta seeking damages and other relief for breach of contract in connection with a contract for the sale of Manna’s property located at 338 East 106th Street, New York, NY (the “Property”).

**FACTS**

Plaintiffs submit the following evidence from the record support of their motion.

Manna is a not-for-profit organization incorporated in the State of New York. Sometime in September 2019, Klosed, Plaintiffs’ predecessor-in-interest, entered into a contract (“Contract”) with Manna authorizing the sale of the Property for \$1.8 million with a closing date on or about 10 days after Manna received approval of the sale from the New York State Attorney General (NYSCEF Doc No. 144, at 3; *see* Not-for-Profit Corporation Law § 511(a) [*providing*

*that a nonprofit corporation must submit a petition to the Attorney General in order to sell substantially all its assets]).*

Unbeknownst to Plaintiffs, Manna then entered into another contract for the sale of the Property with A & A, and the two filed a Memorandum of Contract memorializing the transaction with New York City's Office of the Register (NYSCEF Doc No. 145).

### **RELEVANT PROCEDURAL HISTORY**

On January 15, 2021, the Court (Kelly, J.S.C.) issued a decision and order granting Plaintiffs' motion for a default judgment as against defendants A & A East 106 LLC and Avi Ishta (NYSCEF Doc No. 14).

On February 10, 2021, the Court (Kelly, J.S.C.) amended the January 15, 2021, decision and order, adding that Plaintiffs were entitled to a declaratory judgment on their third cause of action finding that the Notice of Memorandum was void and invalid and would be stricken from the property records of the County Clerk. The order also severed the balance of the action (NYSCEF Doc No. 32).

### **PENDING MOTION**

On February 27, 2026, Plaintiffs moved for partial summary judgment as against Manna (NYSCEF Doc No. 139 [mot. seq. 004]). Plaintiffs specifically move for summary judgment on the first, sixth and seventh causes of action.

The motion was marked submitted on February 27, 2026. Manna did not file opposition.

The Court grants the motion in part for the reasons set forth below.

### **DISCUSSION**

Summary judgment is a drastic remedy reserved for cases where "no material and triable issue of fact is presented" (*Sillman v Twentieth Century-Fox Film Corp.*, 3 NY2d 395, 404

[1957]). To prevail on summary judgment, the movant must establish *prima facie* entitlement to judgment as a matter of law, tendering evidence in admissible form demonstrating the absence of any triable issues of fact (CPLR § 3212(b); *Matter of New York City Asbestos Litig.*, 33 NY3d 20, 25–26 [2019]). Failure to make such a showing requires denial of the motion, “regardless of the sufficiency of the opposing papers” (*Winegrad v N.Y. Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]).

An unopposed motion for summary judgment will be denied either upon a movant’s failure to establish a *prima facie* case or “where the evidence creates a question of fact” (*Yonkers Ave. Dodge, Inc. v BZ Results, LLC*, 95 AD3d 774, 774–75 [1st Dept 2012]). Courts view the evidence in a light most favorable to the nonmovant and accord the nonmovant “the benefit of every reasonable inference” (*Negri v Stop & Shop, Inc.*, 65 NY2d 625, 626 [1985]).

***The Court Grants Plaintiffs’ Motion for Summary Judgment as to Their First Cause of Action for Breach of Contract***

To establish a breach of contract, a plaintiff must demonstrate that (1) the parties entered into a valid agreement, (2) the plaintiff performed, (3) the defendant failed to perform and (4) the plaintiff suffered damages (*Flomenbaum v New York Univ.*, 71 AD3d 80, 91 [1st Dept 2009]). Further, an anticipatory repudiation occurs when “a party repudiates contractual duties prior to the time designated for performance and before all of the consideration has been fulfilled” (*Norcon Power Partners, L.P. v Niagara Mohawk Power Corp.*, 92 NY2d 458, 462–63 [1998] [internal quotations omitted]). A party harmed by anticipatory repudiation may choose to pursue damages for breach (*Princes Point LLC v Muss Dev. L.L.C.*, 30 NY3d 127, 133 [2017]).

Plaintiffs submit evidence that they and Manna were parties to the Contract executed on September 11, 2019, for the Sale of the Property (NYSCEF Doc No. 144) and that sometime after they contracted but prior to February 26, 2020, Manna then entered into another contract for

sale of the Property with A & A (NYSCEF Doc No. 145, at 1). Plaintiffs have thus established a *prima facie* case that Manna anticipatorily repudiated the Contract when Manna subsequently contracted with A & A for the sale of the same Property.

Accordingly, the Court grants Plaintiffs' motion for summary judgment as to their first cause of action.

***The Court Grants Plaintiffs' Motion as to Their Sixth Cause of Action for Return of the Downpayment***

Plaintiff moves for summary judgment as to their sixth cause of action for "Return of Deposit" against Manna House (NYSCEF Doc No. 155). While "return of deposit" is not a cause of action recognized in the State of New York, Plaintiffs appear to request this as a measure of alternative damages to the specific performance of the sale of the Property as Manna has since allowed the Property to accrue an unpaid balance of over \$1.6 million in taxes and other fees (NYSCEF Doc No. 153).

In support of their determination of damages, Plaintiffs cite the Contract which stipulated that they would pay Manna a \$135,000.00 downpayment and also an email from Plaintiffs' attorney to the Court stating that the \$135,000.00 was being held in escrow by Manna's attorney (*see* NYSCEF Doc No. 149).

Summary judgment is granted on this claim.

***The Court Denies Plaintiffs' Motion as to Their Seventh Cause of Action for Breach of the Implied Covenant of Good Faith and Fair Dealing***

All contracts in the State of New York imply a covenant of good faith and fair dealing during the course of their performance (*Transit Funding Assoc., LLC v Capital One Equip. Fin. Corp.*, 149 AD3d 23, 29 [1st Dept 2017]). The implied covenant requires that "neither party shall do anything which will have the effect of destroying or injuring the right of the other party to

receive the fruits of the contract” (*Cordero v Transamerica Annuity Serv. Corp.*, 39 NY3d 399, 409 [2023]).

Plaintiffs argue that Manna breached the implied covenant of good faith and fair dealing when Manna contracted with A & A to sell A & A the Property (NYSCEF Doc No. 141, at 9). However, this argument involves a claim that is “based on the same allegations and seek[s] the same damages” as their breach of contract claim and thus is “duplicative of the breach of contract claim” (*Tillage Commodities Fund, L.P. v SS&C Tech., Inc.*, 151 AD3d 607, 608 [1st Dept 2017]). While Plaintiffs’ complaint alleges that the breach of the implied covenant of good faith and fair dealing arose out of Manna’s failure to submit a petition for the sale of the Property to the Attorney General (*see* NYSCEF Doc No. 155, at 18), Plaintiffs’ supporting papers contain no such argument nor evidence.


Accordingly, the Court denies Plaintiffs’ motion for breach of the implied covenant as they have not met their *prima facie* burden.

**CONCLUSION**

Accordingly, it is hereby:

ORDERED that Plaintiffs’ motion summary judgment (mot. seq. 004) is granted to the extent above.

This constitutes the decision and order of this Court.

  
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3/5/2026  
DATE

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SABRINA KRAUS, J.S.C.

CHECK ONE:	<input checked="" type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> DENIED	<input type="checkbox"/> NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/> GRANTED		<input type="checkbox"/> GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE