

<b>Bikes by Olga LLC v People</b>
2026 NY Slip Op 31080(U)
March 19, 2026
Supreme Court, Kings County
Docket Number: Index No. 506816/2021
Judge: Reginald A. Boddie
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At an IAS Commercial Part 12 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at 360 Adams Street, Borough of Brooklyn, City and State of New York on the 19<sup>th</sup> day of March 2026.

PRESENT:  
Honorable Reginald A. Boddie  
Justice, Supreme Court

-----X

BIKES BY OLGA LLC,

Plaintiff,

Index No. 506816/2021

-against-

Cal. No. 4 MS 15

THE PEOPLE OF THE STATE OF NEW YORK, et al.,

**Decision and Order**

Defendants.

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The following e-filed papers read herein:

NYSCEF Doc Nos.

MS 15

414-417; 435; 439; 441

Defendants the People of the State of New York and the New York State Department of Transportation's motion to dismiss the Verified Second Amended Complaint pursuant to CPLR 3211(a)(2) and (7) is decided as follows:

**Background**

This action arises out of plaintiff's ownership of 353 Berry Street, Brooklyn, New York (the "Property"), which was purchased by plaintiff at a 2019 tax lien foreclosure sale but remains physically occupied by the City of New York (the "City") and related entities for Williamsburg Bridge infrastructure.

Two causes of action are asserted against the People of the State of New York and the New York State Department of Transportation (collectively, the "State") pursuant to CPLR 3001 and

Real Property Actions and Proceedings Law Article 15 for a declaratory judgment finding that plaintiff holds title to the Property and that plaintiff has exclusive rights to the possession, use, and enjoyment of the Property to the exclusion of all other entities or individuals. By Hon. Leon Ruchelsman's Decision and Order dated October 18, 2021, and Judgment dated March 15, 2022, the Court declared plaintiff as the lawful owner of the Property. The State did not appeal the Judgment.

The Court further ordered each defendant, including the State, to provide an affidavit explaining their understanding and supporting documents of how the MTA and/or the TA came to have any right related to the Property by Order dated November 23, 2023. The State moved to vacate such Order pursuant to CPLR 5015(a)(4) for lack of subject matter jurisdiction and in the interests of substantial justice and to remove their names from the caption of this action. By Decision and Order dated April 16, 2024, the Court denied the State's motion to vacate the order and to remove their names.

By Decision and Order dated May 16, 2025, the Court granted plaintiff's motion for leave to amend the complaint solely to the extent of permitting amendment to remove causes of action previously decided for which the time to appeal has expired. On November 14, 2025, plaintiff filed a Verified Second Amended Complaint (the "Complaint"), naming the State, but asserting no cause of action and seeking no relief against the State.

The State now moves to dismiss the Complaint pursuant to CPLR 3211(a)(7) for failure to state a cause of action and CPLR 3211(a)(2) for lack of subject matter jurisdiction. The State argues that no cause of action is asserted and no relief is sought against the State in the Complaint. Based on the final Judgment entered on March 15, 2022, and Decision and Order dated May 16, 2025, the State argues that plaintiff has no basis for claiming that the State might claim an interest in the Property. The State further argues that the Court lacks subject matter jurisdiction over the

Complaint against the State because plaintiff does not allege any cause of action for which the State has waived its sovereign immunity and consented to suit.

In opposition, plaintiff argues that there is a concern that the State could utilize the “easement for maintenance of the Williamsburg Bridge” at any time and the cause of action of taking against the City, if found in favor of plaintiff, could impact the State. Plaintiff also contends that if the Court is to grant the State’s motion to dismiss, the Court should make such dismissal without prejudice and condition it upon the grounds that the State remains bound by determinations made by the Court. In reply, the State argues that there is no legal basis for plaintiff’s opposition.

#### Discussion

On a motion to dismiss pursuant to CPLR 3211(a)(7) for failure to state a cause of action, the Court must “accept the facts as alleged in the complaint as true, accord plaintiffs the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory” (*Leon v. Martinez*, 84 NY2d 83, 87-88 [1994]). “[H]owever, allegations consisting of bare legal conclusions as well as factual claims flatly contradicted by documentary evidence are not entitled to any such consideration” (*Simkin v. Blank*, 19 NY3d 46, 52 [2012]).

“The test of the sufficiency of a pleading is whether it gives sufficient notice of the transactions, occurrences, or series of transactions or occurrences intended to be proved and whether the requisite elements of any cause of action known to our law can be discerned from its averments” (*Air-Sea Packing Group, Inc. v Applied Underwriters, Inc.*, 228 AD3d 20, 34-35 [2d Dept 2024] [citations omitted]).

Here, the Complaint asserts no cause of action and seeks no relief against the State. The claims previously asserted against the State concerning title to the Property were fully adjudicated by the Judgment dated March 15, 2022. The State did not appeal the Judgment, rendering it final and binding. Additionally, by Decision and Order dated May 16, 2025, the Court granted

plaintiff's motion to amend the complaint to remove causes of action previously decided for which the time to appeal has expired.

Accordingly, the Complaint fails to state a cause of action against the State, and dismissal pursuant to CPLR 3211(a)(7) is warranted. In light of this determination, the Court declines to address the State's argument under CPLR 3211(a)(2).

### Conclusion

Based on the foregoing, the State's motion to dismiss is granted in its entirety. Any arguments not specifically addressed herein have been considered and are either without merit or rendered moot by the Court's determination.

ENTER:

*RAB*

Honorable Reginald A. Boddie  
Justice, Supreme Court

HON. REGINALD A. BODDIE  
J.S.C.