

**Valverde v Hur Chan**

2007 NY Slip Op 33439(U)

October 22, 2007

Supreme Court, Queens County

Docket Number: 0000806/2003

Judge: Timothy J. Flaherty

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Short Form Order

SUPREME COURT - STATE OF NEW YORK  
TERM PART, QUEENS COUNTY, PART TT35  
25-10 COURT SQUARE, LONG ISLAND CITY, N.Y.

P R E S E N T :

HON. TIMOTHY J. FLAHERTY  
Justice

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FABRIZIO VALVERDE, an infant by his	:	IND. NO.	<u>806/03</u>
Mother and Natural Guardian,	:		
NEREIDA VALVERDE and NEREIDA	:		
VALVERDE, Individually	:		
	:	Plaintiffs	MOTION
	:		
-against-	:		
	:		
	:	DATED	<u>October 22, 2007</u>
HUR CHAN	:		
	:	Defendant.	

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Arthur O. Tisi, Esq.  
For the Motion

Opposed

		Papers
		Numbered
Notice of Motion & Affidavit Annexed	_____	<u>1-4</u>
Answering & Reply Affidavit	_____	_____
Exhibits	_____	_____
Minutes	_____	_____
Other	_____	_____

Plaintiff's motion is decided in accordance with the accompanying memorandum.

DATED: October 22, 2007  
Gloria D'Amico  
Clerk of the Court

Timothy J. Flaherty, J.S.C.

M E M O R A N D U M

SUPREME COURT OF THE STATE OF NEW YORK  
TRIAL TERM, QUEENS COUNTY, PART TT-35

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FABRIZIO VALVERDE, an infant by his :
Mother and Natural Guardian,       :   BY   TIMOTHY J. FLAHERTY
NEREIDA VALVERDE and NEREIDA       :                               J.S.C.
VALVERDE, Individually,           :
                                     :
                                     :   DATE   October 22, 2007
                                     :
                                     :
                                     :   INDEX NO.   806/03
                                     :
HUR CHAN                           :
Defendant.                          :
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Plaintiff seeks an order seeking the following relief:

1. Deeming defendant's transfers of 91-12 Jamaica Avenue and 110-97 85<sup>th</sup> Avenue, both in Queens County as fraudulent and setting them aside,

2. Reverse-piercing the corporate veil of 110-97 85<sup>th</sup> Avenue, L.P. and 91-12 Jamaica Avenue, L.P.,

3. Attaching all of defendant's property and the aforementioned two parcels,

4. Allowing plaintiff's full access to the financial records of defendant,

5. Forcing the sale of the aforementioned parcels to satisfy the judgment and

6. Entering the judgment against the defendant.  
Underlying the instant motion is a suit brought by the parents of Fabrizio Valverde against the defendant Chan Hur, the landlord of their home for injuries sustained by him as a result

of lead paint poisoning. The matter was tried by this Court without a jury and a verdict for the plaintiff was rendered and damages were determined to be \$100,000. On October 11, 2007 a judgment on the aforementioned action was signed by the Court.

As the defendant has not opposed the motion the undisputed facts set forth in plaintiff's motion are that on January 23, 2003, three days after defendant was served with a summons and complaint in the underlying suit defendant transferred ownership of the two above referenced dwellings from himself [the sole owner] to the respective above references limited partnerships. The address of both entities is the same as that listed by the defendant, 69-27 Juno Street. The 85<sup>th</sup> Avenue property has an estimated market value of \$503,000. The listed full sale price was \$0.00. The listed buyer is the defendant, Chan Hur. The Jamaica Avenue property had an estimated market value of \$331,000. The listed full sale price as \$0.00 and the buyer as Chan Hur.

On November 19, 2004 the defendant sold the property where the lead poisoning occurred, 87-17 96<sup>th</sup> Street to Luis and Vilma Anguizaca for \$570,000.

According to the transcript of the father's deposition, defendant has made representations to him that were the verdict to go against him he would return to his own county, South Korea, and that he had already made provisions to ensure that none would be paid.

Section 273-a of the Debtor and creditor Law reads as follows:

Every conveyance made without consideration when the person making it is a defendant in an action for money damages or a judgment in such an action has been docketed against him, is fraudulent as to the plaintiff in that action without regard to the actual intent of the defendant, if, after final judgment for the plaintiff, the defendant fails to satisfy the judgment.

The defendant fits squarely within the dictates of the statute. Moreover, although the defendant's intent is not a factor in enforcing this statute it is plain to the Court that this conveyance was done with the intent of making himself judgment proof. Accordingly, these transfers are fraudulent and are set aside. For these reasons, upon entry of the judgment plaintiff's application for an order of attachment upon the two properties, to wit, 91-12 Jamaica Avenue and 110-97 85<sup>th</sup> Avenue, both in Queens County, is also granted. Plaintiff may renew his remaining applications if the judgment is not satisfied out of the proceeds of the sale of the aforementioned properties.

Submit order.

The Clerk of the Court is directed to mail a copy of this Memorandum and Order to the attorney for the plaintiffs and to the defendant at his last known address.

DATED: October 22, 2007

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TIMOTHY J. FLAHERTY, J.S.C.