

Baxter St. Condominium v Baxter Condo Sales LLC
2015 NY Slip Op 32558(U)
May 15, 2015
Supreme Court, New York County
Docket Number: 155014/2014
Judge: Anil C. Singh
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 61

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BAXTER STREET CONDOMINIUM, BY ITS
BOARD OF MANAGERS,

Plaintiff,

-against-

BAXTER CONDO SALES LLC, NEW YORK
STATE DEPARTMENT OF TAXATION &
FINANCE, NEW YORK CITY DEPARTMENT
OF FINANCE, et al.,

Defendants.

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DECISION AND
ORDER

Index No.
155014/2014

HON. ANIL C. SINGH, J.:

Plaintiff moves for an order: a) pursuant to CPLR 3212, dismissing the counterclaims and defenses set forth in the answer of defendant Baxter Condo Sales LLC (“BCS”) and granting plaintiff summary judgment against BCS; b) appointing a referee to compute the amount due to plaintiff, including attorneys’ fees and expenses, and to examine whether the premises can be sold in one parcel; c) pursuant to CPLR 3215, granting plaintiff a default judgment against defendants New York State Department of Taxation & Finance and the New York City Department of Finance; and d) striking from the caption the names of “John Doe” and “Jane Doe.” Defendant BCS opposes the motion.

Plaintiff commenced the instant action to foreclose on a lien for unpaid common charges held by the condominium against a unit in the building known as the Baxter Street Condominium at 123 Baxter Street in Manhattan.

On June 19, 2013, this Court granted plaintiff's motion for summary judgment in three related actions involving related issues under Supreme Court index numbers 650962/12, 650964/12, and 650965/12. Defendants in those actions filed Notice of Appeal.

By decision entered March 3, 2015, the First Department affirmed the award of summary judgment in favor of plaintiff, finding that the condominium had established its entitlement to recover unpaid common charges and late fees from defendant, a designee of the sponsor and an owner of three commercial condominium units.

For the reasons stated in the memorandum opinion of the First Department entered March 3, 2015, we find that plaintiff has demonstrated that it is entitled to summary judgment in the instant action. Accordingly, it is

ORDERED that plaintiff's motion is granted; and it is further

ORDERED that this action to foreclose a lien for unpaid common charges affecting premises known as 123 Baxter Street, Unit PHB, New York, New York 10013 shall be and the same is hereby referred to Michael J. Roberts, Esq., having

an address located at 401 Broadway, New York, New York 10013-3005, telephone number 212-226-4925, to ascertain and compute the amount, including reasonable attorneys' fees and expenses, due to the plaintiff on the lien set forth in the complaint and to examine and report whether the subject premises can be sold in one parcel; and it is further

ORDERED that such Referee shall make the Referee's Report to this Court with all convenient speed; and it is further

ORDERED that by accepting this appointment the Referee certifies that the Referee is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to, section 36.2(c) ("Disqualifications from appointment"), and section 36.2(d) ("Limitations on appointments based upon compensation"); and it is further

ORDERED that, upon submission of the Referee's Report, plaintiff shall pay \$250.00 to the Referee as compensation for his services, which sum may be recouped as cost of litigation; and it is further

ORDERED that the caption of this action be amended by discontinuing the action against the remaining defendants sued herein as "John Doe" and "Jane Doe," all without prejudice to the proceedings already had herein; and it is further

ORDERED that the caption of this action, as amended, shall read as

follows:

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BAXTER STREET CONDOMINIUM, BY ITS
BOARD OF MANAGERS,

Plaintiff,

-against-

Index No:
155014/2014

BAXTER CONDO SALES LLC, NEW YORK
STATE DEPARTMENT OF TAXATION &
FINANCE, and NEW YORK CITY DEPARTMENT
OF FINANCE,


Defendants.

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and it is further;

ORDERED that a default judgment in favor of plaintiff is granted on default
against defendants New York State Department of Taxation & Finance, and the
New York City Department of Finance.

Date: 5/5/15
New York, New York



Anil C. Singh