

**Reiser v Sutton Manor Apts., Inc.**

2017 NY Slip Op 30097(U)

January 10, 2017

Supreme Court, New York County

Docket Number: 157686/16

Judge: Barbara Jaffe

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various state and local government websites. These include the New York State Unified Court System's E-Courts Service, and the Bronx County Clerk's office.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : IAS PART 12

-----X  
STUART REISER, as ADMINSTRATOR C.T.A. of THE  
ESTATE OF SELMA H. LEDERER, Deceased,

Index No. 157686/16

Petitioner,

Mot. seq. nos. 001, 002

-against-

**DECISION AND ORDER**

SUTTON MANOR APARTMENTS, INC. and JAMES B.  
LEDERER,

Respondents.

-----X  
BARBARA JAFFE, J.:

**For petitioner:**  
David O. Marcus, Esq.  
Shapiro Croland et al.  
411 Hackensack Ave.  
Hackensack, NJ 07601

**For respondent Lederer:**  
Adam Drapkin, Esq.  
Friedrich & Friedrich, P.A.  
203 Godwin Ave.  
Ridgewood, NJ 07450  
201-670-9600

Eric M. Pelz, Esq.  
Law Offices of Eric Pelz, P.A.  
43 W. 43<sup>rd</sup> St., Ste. 46  
New York, NY 10036

By notice of petition and petition, petitioner moves pursuant to CPLR 5225(b) and 5227 for orders: (1) directing that respondent Sutton Manor Apartments, Inc. (Sutton) issue to petitioner a stock certificate for the shares associated with apartment 11D at 430 East 56<sup>th</sup> Street, New York, New York (Unit); (2) directing that Sutton issue and execute a new proprietary lease between it and petitioner for the unit to recognize the Estate as the unit's owner; (3) that upon issuance of the new stock certificate, declaring that the shares issued to respondent Lederer and the proprietary lease between Sutton and Lederer are redeemed and cancelled of record; and (4) directing that Lederer relinquish possession of the unit and remove all personal property from it within 14 days of service of the final judgment granting the relief requested in the petition, and upon his failure to do so, issuing a warrant of removal authorizing the Sheriff of New York

County or his designated agent or a marshal to remove forthwith any occupants in the unit who do not voluntarily relinquish possession of the Unit, and thereupon causing the Estate to be placed in possession of the unit. Petitioner also requests that it be authorized to dispose of any personal property located in or about the unit after the removal and/or eviction of its occupants, that it be relieved of any obligation to either move or store any remaining personal property, and that it be authorized to dispose of any of Lederer's property not removed from the unit and/or to continue to store such property in the unit pending its disposal.

By order to show cause, Lederer moves for an order granting him a stay of the proceedings here pursuant to CPLR 5404(a), (b) pending a notice of appeal filed with the New Jersey Appellate Court; granting a stay pursuant to CPLR 2201; granting a stay pursuant to CPLR 326(a) and transferring the proceeding to the New York County Surrogate's Court pursuant to CPLR 325(e); granting an extension of time pursuant to CPLR 2004 for him to respond to the petition; and dismissing and/or vacating the petition as to the Unit pursuant to CPLR 5402(b), 5015(a)(3), 5205(c)(2)(3), (d), CPLR 5201(c)(2), and CPLR 5206(d), (e). Petitioner opposes the order to show cause.

### I. BACKGROUND

In this proceeding, petitioner seeks to enforce judgments entered in the State of New Jersey on September 12, 2014 and February 3, 2015 in favor of petitioner and against Lederer.

On July 21, 2006, Selma H. Lederer died in New Jersey. In 2007, the decedent's grandchildren, Michelle and Mark Lederer, filed a probate action in New Jersey on behalf of themselves and the estate against Lederer, their uncle, along with other family members,

challenging various wills and inter vivos transfers executed by the decedent. The parties thereafter agreed to arbitrate the issues in a private arbitration. (NYSCEF 1).

After the arbitrator issued several arbitration awards, all of which were confirmed by the New Jersey Court, on September 12, 2014, the Court entered a judgment against Lederer in favor of Mark and Michelle Lederer and the estate. In the judgment, the Court directed, among others, that a lien be entered in favor of the estate on the cooperative shares and proprietary lease held by Lederer or any other respondents in several cooperative buildings in New York, including the unit at issue here. The estate, through its administrator, was authorized to take any necessary steps in the State of New York to perfect and/or enforce the liens, and Lederer and the others were directed to turn over the share certificates and proprietary leases for each of the units and/or apartments within 10 days of the date of the judgment. (NYSCEF 7).

On or about October 27, 2014, Lederer filed a notice of appeal of the September 2014 judgment. (NYSCEF 8).

On February 3, 2015, the Court issued a further order and judgment, granting various relief to the Estate and against Lederer, including a money judgment against Lederer in the approximate sum of \$6.6 million. The Court also found Lederer in contempt for his failure to comply with prior orders. (NYSCEF 7). Lederer also appealed this order.

On March 17, 2015, petitioner filed a copy of the September 2014 judgment in the Supreme Court, New York County, and on April 28, 2015, it filed a copy of the February 2015 judgment. (NYSCEF 1).

On February 12, 2016, the New Jersey Court issued an order correcting a clerical error in the proper address of the unit. (NYSCEF 7).

To date, Lederer has failed to comply with the New Jersey orders. (NYSCEF 1).

## II. CONTENTIONS

Lederer raises various objections to the procedures invoked here by petitioner in seeking to enforce the judgments, and also contends that the judgments are erroneous. And, as the judgments are pending appeal, he seeks a stay here pending the appeal's determination, asserting that absent a stay, he would suffer irreparable harm by losing his home, and that there is sufficient security as the unit will likely only appreciate in value while the stay is in effect. (NYSCEF 5).

Petitioner contends that the arguments made by Lederer regarding the propriety of the judgments have been rejected by the New Jersey courts, including an order dated August 12, 2016, in which Lederer's cross motion seeking to compel petitioner to transfer the unit to a testamentary trust of which Lederer is the lifetime beneficiary was denied. In the order, the court observes that appeals of the prior orders and judgment are still pending. Petitioner also argues that a stay is unwarranted as Lederer has no meritorious defense to the judgments. (NYSCEF 12).

## III. ANALYSIS

Pursuant to CPLR 5306, this court may stay enforcement of a judgment entered in another state if an appeal is pending. Pursuant to CPLR 2201, a court may grant a stay of proceedings in a proper case, upon such terms as may be just.

Here, Lederer has shown that enforcement of the judgments would cause him irreparable harm in the form of the loss of his home. Moreover, the disposition of the appeals directly affects petitioner's right to the relief sought in this proceeding. Petitioner has neither argued nor shown that it would suffer any prejudice if a stay is granted. (*See Krineta Enter. Co. Ltd. v*

*Lavidas*, 48 Misc 3d 1219[A], 2015 NY Slip Op 51167[U] [Sup Ct, New York County 2015] [granting stay as there was pending appeal in Greece, and there had been prior proceedings in Greece]).

#### IV. CONCLUSION

Accordingly, it is hereby

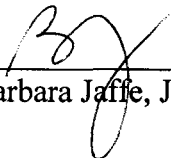
ORDERED, that the petition is held in abeyance; it is further

ORDERED, that respondent Lederer's motion is granted to the extent of staying the proceeding pending a decision on his appeals of the New Jersey judgments; it is further

ORDERED, that the parties are directed to advise this court of the decision on the appeals; and it is further

ORDERED, that within 20 days of the date of the appeals decision, respondent is directed to appear or answer the petition.

ENTER:

  
\_\_\_\_\_  
Barbara Jaffe, JSC

DATED:     January 10, 2017  
              New York, New York