

Fareverse v Salmon
2017 NY Slip Op 31625(U)
July 17, 2017
Supreme Court, Kings County
Docket Number: 518139/16
Judge: Noach Dear
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At an IAS Term, Part FRP-1, of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 17th day of July 2017.

P R E S E N T:

HON. NOACH DEAR,

J.S.C.

Index No.: 518139/16

_____ x

FAREVERSE,

Plaintiff,

DECISION AND ORDER

-against-

OWEN SALMON et al,

Defendant,

_____ x

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

Papers	Numbered
Moving Papers and Affidavits Annexed	<u>1</u>
Opposition	<u>2</u>
Reply	<u>3</u>

Upon the foregoing cited papers, the Decision/Order on this Motion is as follows:

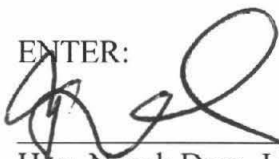
Defendant moves for dismissal arguing that documentary evidence makes it clear that there is no default. Plaintiff opposes.

Defendant was the owner of the subject premises at the time that his mother (who had a life interest) applied for a reverse mortgage. Only she signed the note. Both signed the reverse mortgage. Therein it states that “[t]he mortgagor is OWEN SALMON ** MAVIS PRIESTMAN RESERVES A LIFE ESTATE IN THE PREMISES FOR THE DURATION OF HER LIFETIME, whose address is 410 Wyona Street, Brooklyn, New York 11207 (“Borrower”).” In other words, “Borrower” refers to both Defendant and Ms. Priestman. Further, it is “Borrower” who mortgaged the property (see bottom of p. 1 of 12) and “Borrower” also warranted that he/she “is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the property” (p. 2 of 12). Ms

Priestman could not do so without Defendant. Finally, both Defendant and Ms. Priestman signed at the end of the agreement where it states that "BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it."

In light of the foregoing, the Court finds that Defendant Owen Salmon is a "Borrower" as defined in the reverse mortgage and, as such, there is a surviving "Borrower" residing at the premises and Ms. Preistman's death was not grounds for acceleration of the debt.

Case dismissed.

ENTER:


Hon. Noach Dear, J.S.C.

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