

NYCTL 1998-2 Trust v Jacob & Jerry Invs. LLC

2019 NY Slip Op 31028(U)

April 8, 2019

Supreme Court, New York County

Docket Number: 157503/2018

Judge: Arlene P. Bluth

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARLENE P. BLUTH PART IAS MOTION 32

Justice

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NYCTL 1998-2 TRUST AND THE BANK OF NEW YORK
MELLON, AS COLLATERAL AGENT AND CUSTODIAN AND,
NYCTL 2016-A TRUST AND THE BANK OF NEW YORK
MELLON, AS COLLATERAL AGENT AND CUSTODIAN AND,
NYCTL 2017-A TRUST AND THE BANK OF NEW YORK
MELLON, AS COLLATERAL AGENT AND CUSTODIAN,

Plaintiffs,

- v -

JACOB & JERRY INVESTMENTS LLC, NEW YORK STATE
DEPARTMENT OF TAXATION AND FINANCE, NEW YORK CITY
DEPARTMENT OF FINANCE, NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD, NEW YORK CITY
PARKING VIOLATIONS BUREAU, NEW YORK CITY
DEPARTMENT OF HOUSING PRESERVATION AND
DEVELOPMENT, AND JOHN DOE 1 THROUGH JOHN DOE 100,
THE NAMES OF THE LAST 100 DEFENDANTS BEING
FICTITIOUS, THE TRUE NAMES OF SAID DEFENDANTS BEING
UNKNOWN TO PLAINTIFFS, IT BEING INTENDED TO
DESIGNATE FEE OWNERS, TENANTS OR OCCUPANTS OF
THE LIENED PREMISES AND/OR, PERSONS OR, PARTIES
HAVING OR CLAIMING AN INTEREST IN OR LIEN UPON THE
LIENED PREMISES, IF THE AFORESAID INDIVIDUAL
DEFENDANTS ARE LIVING, AND IF ANY OR ALL OF SAID
INDIVIDUAL DEFENDANTS ARE DEAD, THEIR HEIRS AT LAW,
NEXT OF KIN, DISTRIBUTEES, EXECUTORS,
ADMINISTRATORS, TRUSTEES, COMMITTEES, DEVISEES,
LEGATEES, AND THE ASSIGNEES, LIENORS, CREDITORS
AND SUCCESSORS IN INTEREST OF THE THEM, AND
GENERALLY ALL PERSONS HAVING OR CLAIMING UNDER,
BY, THROUGH, OR AGAINST THE SAID DEFENDANTS NAMED
AS A CLASS, OF, ANY, RIGHT, TITLE OR INTEREST IN OR LIEN
UPON THE PREMISES DESCRIBED IN THE COMPLAINT
HEREIN

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 16, 17, 18, 19, 20,
21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31

were read on this motion to/for

APPOINT - REFEREE

Upon the Summons, Complaint, and Notice of Pendency filed in this action on August
13, 2018, the affirmation of plaintiff's counsel, and the exhibits annexed thereto, the affidavit of
merit and amount due by Marie Triolo, an Asset Manager of MTAG Services, LLC, servicer for

Plaintiffs, together with the exhibits attached thereto, and all prior papers filed in this action and prior proceedings had herein; and

Upon proof that each of the defendants herein has been duly served with the Summons and Complaint in this action and required notices; and

Upon a Notice of Appearance by Jacob & Jerry Investments LLC, New York City Department of Finance and New York City Department of Housing Preservation and Development; and upon defendants New York City Department of Housing Preservation and Development and the New York City Department of Finance waiving notice of this motion, which has waived notice of this application;

And it appearing that the time for defendants New York State Department of Taxation and Finance; New York City Environmental Control Board, and New York City Parking Violations Bureau to answer the complaint has expired;

And it appearing to the satisfaction of this court that this action was brought to foreclose a tax lien on the property known as 160 West 121st Street, New York, New York, Block 1905, Lot 158 it is hereby

ORDERED that the motion for a default judgment against all defendants granted without opposition; and it is further

ORDERED that Edward Lehner with an address of 180 Cabrini Boulevard, New York, NY 10033, (212) 928-4402, is hereby appointed Referee in accordance with RPAPL § 1321 to compute the amount due to Plaintiff and to examine whether the tax parcel can be sold in parcels; and it is further

ORDERED that the Referee may take testimony pursuant to RPAPL § 1321; and it is further

ORDERED that by accepting this appointment the Referee certifies that he is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to §36.2 (c) (“Disqualifications from appointment”), and §36.2 (d) (“Limitations on appointments based upon compensation”), and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

ORDERED that, pursuant to CPLR 8003(a), and in the discretion of the court, a fee of \$350 shall be paid to the Referee for the computation of the amount due and upon the filing of his report and the Referee shall not request or accept additional compensation for the computation unless it has been fixed by the court in accordance with CPLR 8003(b); and it is further;

ORDERED that the Referee is prohibited from accepting or retaining any funds for himself or paying funds to himself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED that plaintiff shall forward all necessary documents to the Referee within 30 days of the date of this order and shall *promptly* respond to every inquiry made by the referee (promptly means within two business days); and it is further

ORDERED that plaintiff must bring a motion for a judgment of foreclosure and sale within 30 days of receipt of the referee’s report; and it is further

ORDERED that if plaintiff fails to meet these deadlines, then the Court may *sua sponte* vacate this order and direct plaintiff to move again for an order of reference and the Court may *sua sponte* toll interest depending on whether the delays are due to plaintiff’s failure to move this litigation forward; and it further

ORDERED that "John Doe" be removed as a party defendant in this action and the caption of this action be amended to reflect the removal of "John Doe" as a party defendant; and it is further

ORDERED that the caption shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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NYCTL 1998-2 TRUST AND THE BANK OF
NEW YORK MELLON, AS COLLATERAL
AGENT AND CUSTODIAN AND, NYCTL
2016-A TRUST AND THE BANK OF NEW
YORK MELLON, AS COLLATERAL AGENT
AND CUSTODIAN AND, NYCTL 2017-A
TRUST AND THE BANK OF NEW YORK
MELLON, AS COLLATERAL AGENT AND
CUSTODIAN,

INDEX NO: 157503/2018
TAXED PARCEL: 160 West 121st
Street, New York, New York

Block: 1905
Lot: 158

Plaintiffs,

v.

JACOB & JERRY INVESTMENTS LLC, NEW
YORK STATE DEPARTMENT OF
TAXATION AND FINANCE, NEW YORK
CITY DEPARTMENT OF FINANCE, NEW
YORK CITY ENVIRONMENTAL CONTROL
BOARD, NEW YORK CITY PARKING
VIOLATIONS BUREAU, NEW YORK CITY
DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT

Defendant(s).

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and it is further

ORDERED that Plaintiff shall serve a copy of this Order with notice of entry on all parties and persons entitled to notice, including the Referee appointed herein.

Next Conference: July 30, 2019 @ 2:15 p.m. If a motion for judgment of foreclosure and sale has been filed, plaintiff may seek an adjournment of the conference. Please consult this part's rules for information on how to obtain an adjournment. If a motion has been made, then a conference is required to explore the reasons for the delay.

4-8-19
DATE



ARLENE P. BLUTH, J.S.C.

HON. ARLENE P. BLUTH

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE