

Hilton Resorts Corp. v Rous
2019 NY Slip Op 31640(U)
June 7, 2019
Supreme Court, New York County
Docket Number: 850296/2014
Judge: Arlene P. Bluth
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (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

-----X

INDEX NO. 850296/2014

HILTON RESORTS CORPORATION,

MOTION DATE 06/16/2017

Plaintiff,

MOTION SEQ. NO. 002

- v -

STEPHEN ROUS, BOARD OF DIRECTORS, 57TH ST.
VACATION OWNERS ASSOCIATION, INC., NEW YORK STATE
DEPARTMENT OF TAXATION AND FINANCE,

DECISION AND ORDER

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 002) 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53

were read on this motion to/for

APPOINT - REFEREE

Upon the Summons, Complaint, and Notice of Pendency filed in this action on October 1, 2014, the subsequent Notice of Pendency, the Notice of Motion dated May 9, 2017, the affirmation of Maria Sideris, Esq. of Druckman Law Group, PLLC, attorneys for Plaintiff, and the exhibits annexed thereto, the affidavit of merit and amount due by Ileana Gonzalez, who is Portfolio Services Supervisor of plaintiff Hilton Resorts Corporation duly sworn to on April 4, 2017, 2019, together with the exhibits attached thereto, and all prior papers filed in this action and prior proceedings had herein, including the appointment of Arthur Greig as Guardian ad Litem of Stephen M. Rous and Order of Service by Publication and proof of completion thereof; 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

AND upon the answer of the Guardian ad Litem for Stephen M. Rous and it appearing that no other defendant has appeared and their time to do so having expired; and

AND it appearing to the satisfaction of this court that this action was brought to foreclose a percentage interest in in a timeshare unit located at 102 West 57th Street, in the County of New York, State of New York, Block 1009, Lots 37 and 39, it is hereby

ORDERED that the motion for summary judgment and default judgment by plaintiff is granted without opposition; and it is further

ORDERED that Mark Mckew, Esq., with an address of 1725 York Avenue, 29A, New York, New York 10128 (212) 876-6783, is hereby appointed Referee in accordance with RPAPL § 1321 to compute the amount due to Plaintiff for principal, interest and other disbursements advanced as provided for in the note and mortgage upon which this action is brought, and to examine whether the property 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 she/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 her/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 herself/himself or paying funds to him/herself 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 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; and it is further

ORDERED that the plaintiff shall include the Guardian ad Litem's bill with the motion for Judgment of Foreclosure and Sale, stating whether it has been paid and any objections thereto.

Next Conference: November 12, 2019 at 10 am. If a motion for a judgment of foreclosure and sale has been made prior to the conference, then an adjournment may be obtained; consult the foreclosure rules of this Part in order to obtain an adjournment. If a conference is necessary, come prepared to explain the reasons for the delay.

6/7/2019

DATE



ARLENE P. BLUTH, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINANCIAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE

HON. ARLENE P. BLUTH