

Board of Mgrs. of the Vanderbilt Condominium v Chinese Am. Trading Co., Inc.
2019 NY Slip Op 31756(U)
June 20, 2019
Supreme Court, New York County
Docket Number: 161948/2018
Judge: Arlene P. Bluth
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTYPRESENT: HON. ARLENE P. BLUTH

PART

IAS MOTION 32

Justice-----X
BOARD OF MANAGERS OF THE VANDERBILT CONDOMINIUM,
Plaintiff,INDEX NO. 161948/2018MOTION DATE N/AMOTION SEQ. NO. 001

- v -

CHINESE AMERICAN TRADING CO., INC., NEW YORK STATE
DEPARTMENT OF TAXATION, NEW YORK CITY DEPARTMENT
OF FINANCE, JOHN DOE #1 TO JOHN DOE #20DECISION AND ORDER OF
REFERENCEDefendants.
-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27

were read on this motion to/for

JUDGMENT - DEFAULT

The motion for a default judgment by plaintiff is granted.

This foreclosure action relates to unpaid common charges incurred by defendant Chinese American Trading Co., Inc., ("Defendant") which is the owner of an apartment at 235 East 40th Street in Manhattan. Plaintiff claims that it filed a lien in September 2018 for \$2,782.08.

Defendant does not oppose the merits of plaintiff's motion. Rather, Defendant claims that it simply wants the opportunity to contest the amount calculated by the referee. Defendant also attaches a proposed answer but *does not cross-move to compel acceptance of a late answer*.

Plaintiff's motion is granted; the parties stipulated to allow Defendant to the chance to submit objections to the referee's calculation (*see* NYSCEF Doc. No. 27). To the extent that Defendant wants to file an answer, that request is denied because Defendant did not cross-move for that relief.

Accordingly, it is hereby

ORDERED that the motion for a default judgment against all defendants is granted; and it is further

ORDERED that Michael Roberts, 401 Broadway, New York, NY 10013 (212) 226-4925, is hereby appointed Referee in accordance with RPAPL § 1321 to compute the amount due to Plaintiff 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 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 herself/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 #1 through #20" be removed as party defendants in this action and the caption shall read as follows:

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

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BOARD OF MANAGERS OF THE
VANDERBILT CONDOMINIUM,

Plaintiff(s),

v.

CHINESE AMERICAN TRADING CO.,
INC., NEW YORK STATE DEPARTMENT OF
TAXATION, NEW YORK CITY
DEPARTMENT OF FINANCE,

Defendant(s).

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and it is further

ORDERED that counsel for plaintiff shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the General Clerk's Office (60 Centre

Street, Room 119), who are directed to mark the court's records to reflect the parties being removed; and it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address (www.nycourts.gov/suptctmanh)); 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; and it

Next Conference: December 3, 2019 at 2:15 p.m. 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.

6/20/19

DATE

CHECK ONE:

☒

CASE DISPOSED

☒

GRANTED

☐

DENIED

APPLICATION:

☐

SETTLE ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

☒

NON-FINAL DISPOSITION

☐

GRANTED IN PART

☐

SUBMIT ORDER

☐

FIDUCIARY APPOINTMENT

☐

OTHER

☐

REFERENCE

ARLENE P. BLUTH, J.S.C.

HON. ARLENE P. BLUTH