

Christiana Trust v McDuffey
2019 NY Slip Op 31787(U)
June 18, 2019
Supreme Court, New York County
Docket Number: 850025/2016
Judge: Arlene P. Bluth
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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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CHRISTIANA TRUST, A DIVISION OF WILMINGTON SAVINGS
FUND SOCIETY, FSB NOT IT ITS INDIVIDUAL CAPACITY BUT
SOLELY AS SHAP R TRUSTEE,

INDEX NO. 850025/2016MOTION DATE N/AMOTION SEQ. NO. 003

Plaintiff,

- v -

DORIS MCDUFFEY, AS ADMINISTRATOR AND HEIR TO THE
ESTATE OF RUTH ADAMS, DARRYL ADAMS AS HEIR TO THE
ESTATE OF RUTH ADAMS, TENNILE ADAMS AS HEIR TO THE
ESTASTE OF LAMONTE TROY ADAMS WHO WAS HEIR TO
THE ESTATE OF RUTH ADAMS, TROI J. ADAMS AS HEIR TO
THE ESTATE OF LAMONTE TROY ADAMS WHO WAS HEIR TO
THE ESTATE OF RUTH ADAMS, NYDIRA ADAMS AS HEIR TO
THE ESTATE OF LAMONTE TROY ADAMS WHO WAS HEIR TO
THE ESTATE OF RUTH ADAMS, LEXYE ADAMS AS HEIR TO
THE ESTATE OF LAMONTE TROY ADAMS WHO WAS HEIR TO
THE ESATE OF RUTH ADAMS, LORENZO SCOTT-ADAMS A/K/A
LORENZO SCOTT-WALLACE AS HEIR TO THE ESTATE OF
LAMONTE TROY ADAMS WHO WAS HEIR TO THE ESTATE OF
RUTH ADAMS, NEW YORK STATE DEPARTMENT OF
TAXATION AND FINANCE, UNITED STATES OF AMERICA,
O/B/O INTERNAL REVENUE SERVICE, JOHN DOE, JANE DOE

Defendant.

DECISION AND ORDER OF REFERENCE

The following e-filed documents, listed by NYSCEF document number (Motion 003) 60, 61, 62, 63, 64,
65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79

were read on this motion to/for

JUDGMENT - SUMMARY

Upon the Notice of Motion dated November 20, 2017, together with all the papers filed
in support of the motion and the exhibits annexed 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 it appearing to the satisfaction of this court that this action was brought to foreclose
a mortgage on real property located at 114 West 130th Street, New York, NY 10027 it is hereby

ORDERED that the branch of plaintiff's motion for summary judgment is granted without opposition and the answer (NYSCEF Doc. No. 17), any affirmative defenses and counterclaims of the Estate of Ruth Adams (a former party) are severed and dismissed; and it is further

ORDERED that the branch of plaintiff's motion for a default judgment in favor of plaintiff against all non-appearing defendants is granted; and it is further

ORDERED that Roberta Ashkin, 300 East 42nd Street, 14th Floor,
NY NY 10017 646-~~8~~ 779-8520 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 mortgaged 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

Next Conference: November 26, 2019 at 2:15 p.m. If plaintiff has moved for a judgment of foreclosure and sale before the conference, then plaintiff can seek an adjournment. Please consult the part's rules for information about how to obtain an adjournment. An appearance is

required if a motion for a JFS has not been made; counsel appearing for plaintiff must come prepared to explain the delay or interest may be tolled.

6/18/19
DATE

[Signature]

ARLENE P. BLUTH, J.S.C.

HON. ARLENE P. BLUTH

CHECK ONE:

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CASE DISPOSED

☒

GRANTED

☐

DENIED

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NON-FINAL DISPOSITION

☐

GRANTED IN PART

☐

OTHER

APPLICATION:

☐

SETTLE ORDER

☐

SUBMIT ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

☐

FIDUCIARY APPOINTMENT

☐

REFERENCE