

HSBC Bank USA, N.A. v Eamtrakul
2019 NY Slip Op 31793(U)
June 18, 2019
Supreme Court, New York County
Docket Number: 850205/2017
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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HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR
DEUTSCHE ALT-A SECURITIES, INC. MORTGAGE LOAN
TRUST, SERIES 2006-AR4, MORTGAGE PASS-THROUGH
CERTIFICATES,

INDEX NO. 850205/2017MOTION DATE N/AMOTION SEQ. NO. 001

Plaintiff,

- v -

DOUNGRAT EAMTRAKUL, BANK OF AMERICA, NATIONAL
ASSOCIATION, JOHN DOE #1 THROUGH JOHN DOE #12,

Defendant.

DECISION AND ORDER OF REFERENCE

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39

were read on this motion to/for

JUDGMENT - SUMMARY

Upon the Summons, Complaint, and Notice of Pendency filed in this action on September 5, 2017, the Notice of Motion dated December 14, 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 the plaintiff being directed to file the instant motion (NYSCEF Doc. No. 44);

And it appearing to the satisfaction of this court that this action was brought to foreclose a mortgage on real property located at 210 West 122nd Street, New York, NY 10027 it is hereby

ORDERED that the branch of plaintiff's motion for summary judgment against defendant Doungrat Eamtrakul is granted without opposition and any affirmative defenses and counterclaims 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, Esq., 300 East 42nd St, 14th floor,
NY NY 10017 ☎ 646-779-8520 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 the caption be amended to substitute Laura James, John Doe and Jane Doe for John Doe #1 through John Doe #3 and removing John Doe #4 through #12, and the caption shall read as follows:

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

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HSBC BANK USA, NATIONAL ASSOCIATION
AS TRUSTEE FOR DEUTSCHE ALT-A
SECURITIES, INC. MORTGAGE LOAN
TRUST, SERIES 2006-AR4, MORTGAGE PASS-
THROUGH CERTIFICATES,
Plaintiff,

v.

DOUNGRAT EAMTRAKUL, BANK OF AMERICA,
NATIONAL ASSOCIATION, LAURA JAMES, JOHN
DOE, JANE DOE,
Defendant(s).

-----X
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 added and 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/supctmanh)); 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 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

CHECK ONE:

APPLICATION:

CHECK IF APPROPRIATE:

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X

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CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

☐

DENIED

X

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☐

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NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

☐

OTHER

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REFERENCE

ARLENE P. BLUTH, J.S. HON. ARLENE P. BLUTH