

Bank of N.Y. Mellon Trust Co. v Maimone
2019 NY Slip Op 32224(U)
July 24, 2019
Supreme Court, New York County
Docket Number: 850046/2018
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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THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., F/K/A THE BANK OF NEW YORK TRUST COMPANY, N.A.,

Plaintiff,

- v -

ALEXANDRA MAIMONE aka ALEXANDRA W. MAIMONE, ROBERT MAIMONE, HSBC BANK USA NA, CITIBANK (SOUTH DAKOTA) N A, SOVEREIGN BANK, AMERICAN EXPRESS BANK FSB, THE BOARD OF MANAGERS OF THE ABBEY CONDOMINIUM HOMEOWNERS ASSOCIATION, CITY OF NEW YORK ENVIRONMENTAL CONTROL BOARD, CITY OF NEW YORK PARKING VIOLATIONS BUREAU, CITY OF NEW YORK TRANSIT ADJUDICATION BUREAU, JOHN DOE SAID NAME BEING FICTITIOUS IT BEING THE INTENTION OF PLAINTIFF TO DESIGNATE

Defendant.

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DECISION + ORDER ON MOTION, ORDER OF REFERENCE

The following e-filed documents, listed by NYSCEF document number (Motion 001) 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65

were read on this motion to/for ORDER OF REFERENCE/REFERENCE TO

Upon the foregoing documents, it is

ORDERED that the motion by plaintiff for a default judgment and for an order of reference is granted without opposition; and it is further

ORDERED that Elaine Shay, Esq., with an address of 800 Third Ave NY NY 10022 212-520-2690 is hereby appointed Referee in

accordance with RPAPL § 1321 to compute the amount due to Plaintiff and to examine whether the premises 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 is further

ORDERED that plaintiff's name be amended to be "THE BANK OF NEW YORK MELLON TRUST CO., N.A. FKA THE BANK OF NEW YORK TRUST CO., N.A., AS TRUSTEE FOR MULTI-CLASS MORTGAGE PASS-THROUGH CERTIFICATES CHASEFLEX TRUST SERIES 2007-2, and it is further

ORDERED that "John Doe" be removed as party defendant in this action; 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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THE BANK OF NEW YORK MELLON TRUST
CO., N.A. FKA THE BANK OF NEW YORK
TRUST CO., N.A., AS TRUSTEE FOR MULTI-
CLASS MORTGAGE PASS-THROUGH
CERTIFICATES CHASEFLEX TRUST SERIES
2007-2

Plaintiff,

v.

ALEXANDRA MAIMONE aka ALEXANDRA
W. MAIMONE, ROBERT MAIMONE, HSBC
BANK USA NA, CITIBANK (SOUTH
DAKOTA) N A, SOVEREIGN BANK,
AMERICAN EXPRESS BANK FSB, THE
BOARD OF MANAGERS OF THE ABBEY
CONDOMINIUM HOMEOWNERS
ASSOCIATION, CITY OF NEW YORK
ENVIRONMENTAL CONTROL BOARD,
CITY OF NEW YORK PARKING
VIOLATIONS BUREAU, CITY OF NEW
YORK TRANSIT ADJUDICATION BUREAU,

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 substituted pursuant hereto; 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 (ww.nycourts.gov/supctmanh)); and it is further

ORDERED that the mortgage and the necessary loan documents are reformed to include the mortgage premises as indicated in the legal description attached as Schedule A; and it is further

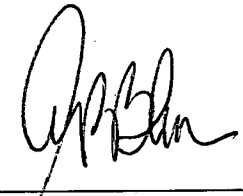
ORDERED that the New York County Clerk note in the original recorded mortgage in the New York County Clerk's office on April 23, 2007 (CFRN 2007000209215) that the legal description is reformed; and it is further

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: January 7, 2020 @ 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.

7/24/19
DATE

HON. ARLENE P. BLUTH



ARLENE P. BLUTH, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
APPLICATION:	<input checked="" type="checkbox"/> GRANTED	<input type="checkbox"/> GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT
	<input type="checkbox"/> DENIED	<input type="checkbox"/> OTHER
		<input type="checkbox"/> REFERENCE

SCHEDULE A
Intended Legal Description

The condominium unit (the "Unit") in the building (the "Building") known as The Abbey Condominium, located at 203-207 East 16th Street, Borough of Manhattan, County, City and State of New York, designated and described as Unit No. 1E in that certain declaration made by Grantor pursuant to Article 9-B of the Real Property Law of the State of New York (the "Condominium Act") establishing a plan for condominium ownership of the Building and the land (the "Land") upon which the Building is situate, dated as of January 9, 2006 and recorded in the Office of the New York City Register, New York County, on March 30, 2006 as Document ID No. 2006032001184001 and City Register File No. 2006000179356 (the "Declaration"). This Unit is also designated as Tax Lot 1007 in Block 897 of Section 1 of the Borough of Manhattan on the Tax Map of the Real Property Assessment Department of the City of New York and on the Floor Plans of the Building, certified by Alfred V. Saulo, A.I.A. and filed with the Real Property Assessment Department of the City of New York as Condominium Plan No. 1537, on March 30, 2006 in the Office of the New York City Register, New York County, as Document ID No. 2006032001184002 and City Register File No. 200600179357;

Together with an undivided 3.34673% interest in the Common Elements (as such term is defined in the Declaration).

The land is described as follows:

All that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, County of New York, City and State of New York, bounded and described below:

Beginning at a point on the Northerly side of East 16th Street, distant 60 feet Easterly from the corner formed by the intersection of the Northerly side of East 16th Street and the Easterly side of Third Avenue;

Running Thence Northerly, parallel with the Easterly side of Third Avenue, 115 feet;

Thence Easterly, parallel with the Northerly side of East 16th Street, 40 feet;

Thence Southerly parallel with the Easterly side of Third Avenue, 23 feet;

Thence Easterly, parallel with the Northerly side of East 16th Street, 46 feet 6 ¼ inches;

Thence Southerly, parallel with the Easterly side of Third Avenue, 92 feet to the Northerly side of 16th Street;

Thence Westerly along the Northerly side of East 16th Street, 86 feet 6 ¼ inches to the point or place of beginning.