

<b>Wells Fargo Bank, N.A. v Barod</b>
2019 NY Slip Op 32228(U)
July 29, 2019
Supreme Court, New York County
Docket Number: 850280/2018
Judge: Arlene P. Bluth
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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. 850280/2018

WELLS FARGO BANK, N.A.,

MOTION DATE \_\_\_\_\_

Plaintiff,

MOTION SEQ. NO. 001

- v -

RAENU BAROD, BOARD OF MANAGERS OF THE  
HORIZON CONDOMINIUM, 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 ANY AND ALL  
OCCUPANTS OF PREMISES BEING FORECLOSED  
HEREIN, AND ANY PARTIES,

**DECISION + ORDER ON  
MOTION, ORDER OF  
REFERENCE**

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 42

were read on this motion to/for JUDGMENT - FORECLOSURE & SALE

Plaintiff moves for both a default judgment and for a judgment of foreclosure and sale.

Although the appointment of a referee is not required, the Court finds that appointing a referee is appropriate here. A motion for a judgment of foreclosure and sale may be made once the referee appointed below issues her or his report. In that same motion, plaintiff may seek to reform the legal description of the premises as requested in these papers.

Accordingly, it is hereby

ORDERED that the motion by plaintiff is granted to the extent that plaintiff is granted a default judgment against all non-appearing defendants and denied to the extent that plaintiff sought a judgment of foreclosure and sale; and it is further

ORDERED that Mark McKew with an address of 1725 York Ave Suite 29A NY NY 10128 is hereby appointed Referee in accordance with RPAPL § 1321 to compute the amount due to Plaintiff and to examine whether the tax parcel 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 further

ORDERED that "John Doe" be removed as party defendants 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

-----X  
WELLS FARGO BANK, N.A.,

Plaintiff,

v.

RAENU BAROD, BOARD OF MANAGERS  
OF THE HORIZON CONDOMINIUM, CITY  
OF NEW YORK ENVIRONMENTAL  
CONTROL BOARD, CITY OF NEW YORK  
PARKING VIOLATIONS BUREAU, CITY OF  
NEW YORK TRANSIT ADJUDICATION  
BUREAU

Defendant(s).  
-----X

and it is further

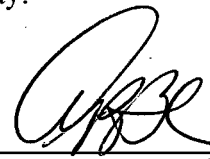
ORDERED that counsel for plaintiff shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the General Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the parties being removed and substituted pursuant 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)].

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: November 26, 2019 @ 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

  
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"/> OTHER
	<input type="checkbox"/> DENIED	<input type="checkbox"/> SUBMIT ORDER
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT
		<input type="checkbox"/> REFERENCE