

HSBC Bank USA, N.A. v Kotwal
2020 NY Slip Op 30387(U)
February 6, 2020
Supreme Court, New York County
Docket Number: 850122/2019
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

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INDEX NO. 850122/2019

HSBC BANK USA, N.A.,

MOTION DATE 02/03/2020

Plaintiff,

MOTION SEQ. NO. 001

- v -

RAHUL KOTWAL, HSBC BANK USA, N.A., BOARD OF MANAGERS OF 45 PARK AVENUE CONDOMINIUM, JOHN DOE #1 THROUGH JOHN DOE #10, THE LAST TEN NAMES BEING FICTITIOUS AND UNKNOWN TO THE PLAINTIFF, THE PERSON OR PARTIES INTENDED BEING THE PERSONS OR PARTIES, IF ANY, HAVING OR CLAIMING AN INTEREST IN OR LIEN UPON THE MORTGAGED PREMISES DESCRIBED IN THE

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

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 24, 25, 26, 27, 28, 29, 30

were read on this motion to/for APPOINT - REFEREE

Upon the foregoing documents, it is hereby

ORDERED that plaintiff's motion for a default judgment against all defaulting defendants is granted without opposition; and it is further

ORDERED that Lorraine Nadel, with an address of 527 Madison Avenue, Floor 7, New York, NY 10022 (212) 317-9500 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 shall hold no hearing and take no testimony or evidence other than by written submission; the Court is the ultimate arbiter and the Referee's report is merely an advisory finding; 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 and to defendants who have appeared in this case 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 if defendant(s) have objections, they must submit them to the referee within 14 days of the mailing of plaintiff’s submissions; and include these objections to the Court if opposing the motion for a judgment of foreclosure and sale; and it is further

ORDERED the failure by defendants to submit objections to the referee shall be deemed a waiver of objections before the Court on an application for a judgment of foreclosure and sale; 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 John Doe defendants are removed from the caption, the Court declines to add parties described as John and Jane Doe (Name Refused) as judgment cannot be entered against a fictitious entity 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, N.A.,
Plaintiff,

v.

RAHUL KOTWAL, HSBC BANK USA, N.A.,
BOARD OF MANAGERS OF 45 PARK AVENUE
CONDOMINIUM,

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 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 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: June 9, 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.

2/6/2020

DATE

ARLENE P. BLUTH, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE