

Hamawi Designs Ltd. v Global Gold & Silver Buyers Inc.
2020 NY Slip Op 31246(U)
May 7, 2020
Supreme Court, New York County
Docket Number: 153305/2019
Judge: Louis L. Nock
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 38

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HAMAWI DESIGNS LTD., : Index No. 153305/2019

Plaintiff, : DECISION & ORDER

GLOBAL GOLD & SILVER BUYERS :
INC., DAVID REUVIN, and OSHRI :
REUVIN, :

Defendants. :
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LOUIS L. NOCK, J.

This is a litigation between members of New York City’s diamond selling trade. Plaintiff sues on what is commonly known in that trade as a “memo” – an industry term for a memorandum of consignment – for two diamonds which were physically handed by plaintiff to one, or the other, or both, of the defendants (as described at the pleading stage), listed in a written memorandum of consignment at a total price of \$71,343, payable to plaintiff (NYSCEF Doc. No. 12). As alleged, the diamonds were either to be accepted by defendants for their own resale, at which point of resale, they would be liable to pay said price to plaintiff; or, if not resold, defendants would be obligated to return the diamonds to plaintiff. Notably, defendant David Reuvin admits in his affidavit submitted in this action that he cannot return the diamonds on account of what he asserts has been a theft of the diamonds by an unknown person during his attendance at a diamond dealers’ trade show in Las Vegas, Nevada (*see*, NYSCEF Doc. No. 20).

Plaintiff moves for summary judgment (motion seq. no. 001) on its claim for \$71,343, plus interest thereon from December 7, 2018, the date of the aforesaid memorandum.

A copy of the transcript of oral argument on the motion (the “Tr” [NYSCEF Doc. No. 28]) has been submitted by plaintiff/movant.

Defendant David Reuvin (“David”) submits an affidavit, not styled as “opposition,” admitting that he took ultimate possession of the diamonds for the purpose of selling them on his own exclusive behalf at the Las Vegas trade show in December 2018. He admits that the memo was negotiated and prepared as between himself and plaintiff, including its stated price of \$71,343. And, as noted, he admits that he cannot return the diamonds to plaintiff due to what he states was their theft by a third, unidentified, person while attending the trade show. It is undisputed that no payment for the diamonds has been tendered to plaintiff.

Defendant Oshri Reuvin (“Oshri”) submits an affidavit consistent with David’s account. Both Oshri and David, who are, respectively, son and father, assert that the memo deal was solely between David and plaintiff, and that Oshri served merely as a messenger to pick up the diamonds for delivery to David, which was accomplished. Both affiants also assert that corporate defendant Global Gold & Silver Buyers Inc. (“Global”) is Oshri’s company, having no relation to David.

David’s counsel acknowledged at oral argument that David “is on the hook for liability” (Tr at 7). David’s counsel also acknowledged at oral argument that at no time did David ever lodge any dispute with plaintiff regarding the terms stated in the memo, which include their price of \$71,343 (*id.*, at 10-11). Yet, said counsel incredulously posited that there still ought to be an issue reserved for trial as to damages; i.e., some triable market value for the diamonds, despite the fact that the memo which his client acknowledged and acquiesced to fixes an express term for the their value, at \$71,343.

Summary judgment is appropriate where the movant has shown that it is entitled to judgment as a matter of law, having tendered “sufficient evidence to demonstrate the absence of any material issues of fact” (*Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]). The

overwhelming evidence submitted on this motion, which includes the memo, David's affidavit, and his counsel's acknowledgements at oral argument, all constitute conclusive and undeniable evidence that David is liable for the diamonds, to plaintiff, at the expressly stated price of \$71,343, and that plaintiff is entitled to interest thereon from the date of the memo, December 7, 2018. Thus, summary judgment is granted to plaintiff to said extent.

As for the remaining defendants, while David's name is found on the memo, it bears Oshri's signature, raising an issue of fact whether the obligation to return, or pay for, the diamonds was shared by Oshri, in addition to David. The same may be said of corporate defendant Global, which is purported by Oshri and David to be Oshri's company, and the name of which is also found on the memo. Given those circumstances, an issue of fact remains only insofar as Oshri and Global are concerned; specifically, were they both obligated under the memo to plaintiff, jointly and severally with David, or not? However, to be perfectly clear, there is absolutely no triable issue as to the value of the diamonds should they be found liable. That value, as expressly and unambiguously stated in the memo, is \$71,343.

Therefore, plaintiff's motion for summary judgment on its complaint is granted, in part, as to the claims against defendant David Reuvin.

Accordingly, it is

ORDERED that plaintiff's motion for summary judgment is granted as to the claims asserted against defendant David Reuvin, and is otherwise denied; and it is further

ORDERED that plaintiff Hamawi Designs Ltd. shall have judgment against defendant David Reuvin in the principal sum of \$71,343, plus interest accruing thereon at the legal rate from December 7, 2018, up to the date of satisfaction of judgment.

Dated: New York, New York
May 7, 2020

ENTER:



Hon. Louis L. Nock, J.S.C.