

Chez WID LLC v Philippe
2020 NY Slip Op 31503(U)
May 15, 2020
Supreme Court, Kings County
Docket Number: 509908/2018
Judge: Richard J. Montelione
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At an IAS Trial Part, Part DJMP, of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, 360 Adams Street, Brooklyn, New York, on ~~March 20, 2020~~ May 15, 2020

P R E S E N T:

Hon. RICHARD J. MONTELIONE,
Justice.

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CHEZ WID LLC, : Index No. 509908/2018
Plaintiff, :
-against- :
JEAN PHILIPPE, :
Defendant. :

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ORDER

Plaintiff having duly moved this Court by Order to Show Cause, dated July 3, 2019, for an Order, inter alia, pursuant to CPLR 5225, directing defendant JEAN PHILIPPE, judgment debtor, to deliver and turn over to plaintiff CHEZ WID LLC, judgment creditor, and/or to the Sheriff, any and all of his shares of 1323 Flatbush Avenue Realty Corp. for the purpose of the satisfaction of the judgment in favor of plaintiff obtained in this action and further execute and deliver any and all documents necessary to effect such delivery and turn over, and for such other and further relief as to this Court may seem just and

proper; and plaintiff having cross-moved by notice of motion, dated November 18, 2019, inter alia, pursuant to CPLR 2221(a), to renew and reargue defendant's motion to vacate the default judgment and, pursuant to CPLR 5015(a), to vacate the default judgment, and for such other and further relief as to this Court may seem just and proper; and the motions having regularly come on to be heard; and an Order, dated November 19, 2019, having been entered, inter alia, granting plaintiff's motion, denying defendant's cross-motion and directing that plaintiff settle an Order on notice; and upon all the proceedings had herein,

NOW, upon reading and filing the Order Show Cause dated July 3, 2019, the Affirmation of Ira Daniel Tokayer, Esq., dated June 25, 2019, and the exhibits annexed thereto; the Notice of Cross-Motion, dated November 18, 2019, the Affirmation of Nnenna Onua, dated November 8, 2019, the Affirmation of Jean Philippe, dated October 21, 2019, and the exhibits annexed thereto; and upon all the proceedings had herein; and the court, on November 19, 2019, having, inter alia, granted plaintiff's motion, denied defendant's cross-motion and directed that an order be settled on notice,

NOW, upon motion of Ira Daniel Tokayer Esq., attorney for plaintiff, it is

ORDERED, that plaintiff's motion is hereby granted; and it is further

ORDERED, that defendant's cross-motion is hereby in all respects denied; and it is further

ORDERED, that defendant JEAN PHILIPPE, judgment debtor, forthwith, and not later than three business days after service of notice of entry of this Order, deliver and turn over to the Kings County Sheriff any and all of defendant's shares of 1323 Flatbush Avenue Realty Corp. and title thereto, and further execute and deliver and turn over to the Sheriff any and all documents necessary to effect such delivery and turn over, including but not limited to an assignment of such shares; and it is further

ORDERED, the Sheriff shall forthwith sell defendant's shares of 1323 Flatbush Avenue Realty Corp. including title thereto, at a public auction at such time and place and as a unit or in such lots, or combination thereof, as in his judgment will bring the highest price, and the proceeds of such sale, if any, shall be immediately paid to plaintiff towards the satisfaction of the judgment in favor of plaintiff obtained in this action, and, upon full satisfaction of such judgment, the balance shall be paid to defendant; and it is further

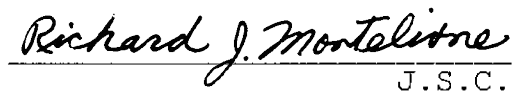
ORDERED, that a printed notice of the time and place of the sale shall be posted at least six days before the sale in three public places Kings County, provided however that, in lieu of posting, such notice may be advertised in the auction columns

of any morning newspaper published daily and Sunday in such city an edition of which appears on the newsstands the previous night and has a circulation of not less than three hundred thousand; and it is further

ORDERED, that the Sheriff's fees and/or poundage, including all costs associated with the posting and/or advertisement, be added to the judgment amount and paid to the Sheriff from the proceeds of such sale; and it is further

ORDERED, that, in event the proceeds of such sale are insufficient to fully satisfy the judgment in favor of plaintiff obtained in this action plus the publication costs and the Sheriff's fees and/or poundage, such shares of 1323 Flatbush Avenue Realty Corp. and title thereto shall be immediately delivered and turned over to plaintiff.

E N T E R:


J.S.C.

Hon. Richard J. Montelione

Digitally signed 5/15/2020 1:53:23 PM by Hon. Richard J. Montelione, E=rmonteli@nycourts.gov, also authorized to file twu@nycourts.gov, location Bklyn NY 11205, FoxitPhantomPDF Version 10.0, pursuant to Administrative Order 86/20 dated 4/20/2020.