

CitiMortgage, Inc. v Fayena
2021 NY Slip Op 30915(U)
March 23, 2021
Supreme Court, Kings County
Docket Number: 514936/2019
Judge: Karen B. Rothenberg
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

At an IAS Term of the Supreme Court of the County of Kings thereof at Kings County Supreme Court, 360 Adams Street, Brooklyn, NY 11201, on the 23 day of March, ~~2020~~ 2021

P R E S E N T : HON: Karen B. Rothenberg
J. S. C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----x **Index No:** 514936/2019

CitiMortgage, Inc.,

Plaintiff,

JUDGMENT

-against-

Sheryl Fayena, Mortgage Electronic Registration Systems, Inc.
as nominee for Meridian Residential Capital, LLC, a Limited
Liability Company, Discover Bank, New York City
Environmental Control Board, City Register of the City of New
York,

Defendants.

-----x

Plaintiff, CitiMortgage, Inc., having moved this Court for an Order Granting Judgment in equity and pursuant to Article 15 of the Real Property and Proceedings Law in order to vacate and discharge, from the record, a Satisfaction of Mortgage dated August 3, 2006 and recorded in on August 10, 2006 in CRFN 2006000451138, reinstating the mortgage the mortgage dated January 06, 2005 and recorded on March 01, 2005 in CRFN 2005000120415, in the Office of the City Register of the City of New York, erroneously satisfied thereby, and to determine claims to the real property commonly known as 1314 Avenue S, Brooklyn, NY 11229, Tax Map/Parcel ID No.: Block 7292, Lot 6; and the said Motion having regularly come on to be heard on and no appearance having been required or made by the attorneys for the parties herein and upon submission and due deliberation having been had thereon.

NOW, upon on reading and filing the Summons, Complaint and Notice of Pendency duly filed in this action on July 9, 2019, and all proceedings thereon, and on the reading and the filing of the affirmation of Howard Kleiman, Esq. dated December 15, 2020, in support of the foregoing relief, and showing that each and all of the defendants herein have been duly served within this State with the summons in this action, and on the affidavits of service heretofore filed in the Office of the Clerk of the County of Kings from all of which it appears that more than thirty days have elapsed since each defendant was served; that none of the defendants answered, moved or appeared with respect thereto, although their time to do so has expired and has not been extended by court order or otherwise; that the defendants named herein have been provided with notice of the instant motion; none of the defendants are infants, incompetents or absentees and, since the filing of the notice of pendency of this action, the complaint herein has not been amended so as to make new party defendants to this action or so as to embrace real property other than that described in the original complaint or so as to the extend the plaintiff's claim against the mortgaged premises; and that the complaint herein and due notice of the pendency of this action containing all the particulars required to be stated therein were duly filed in the Office of the Clerk of the County of Kings on July 9, 2019.

Upon the affirmation of Howard Kleiman, Esq. and upon the application of Frenkel, Lambert, Weiss, Weisman and Gordon, LLP, attorneys for the plaintiff, it is

ORDERED, ADJUDGED AND DECREED that the satisfaction of mortgage recorded on August 10, 2006 in CRFN 2006000451138 in the Office of the City Register of the City of New York be deemed and declared void and of no effect and is hereby vacated and discharged of record; and it is further

ORDERED, ADJUDGED AND DECREED that the First Mortgage dated January 06, 2005 and recorded on March 01, 2005 in CRFN 2005000120415, in the Office of the City

Register of the City of New York (“First Mortgage”) is and is hereby restored as a valid lien on real property known as and by the street address of 1314 Avenue S, Brooklyn, NY 11229, Tax Map/Parcel ID No.: Block 7292, Lot 6; and it is further

ORDERED, ADJUDGED AND DECREED that Plaintiff is the holder of an equitable lien on the Premises in the amount of the balance due on the unpaid First Mortgage and that the equitable lien is consolidated with the Second Mortgage in the principal sum of \$297,076.31, dated June 29, 2006 and recorded July 28, 2006 in CRFN: 2006000427906, pursuant to the terms of the Consolidation Extension and Modification Agreement (“CEMA”) dated June 29, 2006 and recorded July 28, 2006 in CRFN: 2006000427907 forming a single consolidated lien of \$650,000.00 and the Modification dated July 14, 2011 and recorded April 2, 2012 in CRFN: 2012000128206, to form a single consolidated and modified first lien in the amount of \$734,533.38; and it is further

ORDERED, ADJUDGED AND DECREED that, pursuant to RPAPL § 1521, the Plaintiff has a valid consolidated and modified first lien on the Premises and that the interests of all named Defendants herein and every person claiming under him, by title accruing after the filing of the judgment-roll, or of the notice of pendency of the action, as prescribed by law, be forever barred from asserting such claim to an estate or interest superior to that of plaintiff; and it is further

ORDERED, ADJUDGED AND DECREED that, upon presentation of a certified copy of the judgment of this court and payment of the proper fees, the City Register of the City of New York is and is hereby directed to record a certified copy of this judgment and to mark the records that the satisfaction of mortgage, dated August 3, 2006 and recorded on August 10, 2006 in CRFN 2006000451138 in the Office of the City Register of the City of New York is vacated and discharged from the record and that the First Mortgage, dated January 06, 2005 and recorded

on March 01, 2005 in CRFN 2005000120415, erroneously satisfied thereby, is and is hereby restored as a valid lien on real property known as and by street address of 1314 Avenue S, Brooklyn, NY 11229, Tax Map/Parcel ID No.: Block 7292, Lot 6.

A description of the said mortgaged premises hereinbefore mentioned is annexed hereto and made a part thereof. (See Schedule A)

Enter:



J.S.C.