

City Natl. Bank v Baby Blue Distribs., Inc.
2021 NY Slip Op 32516(U)
November 30, 2021
Supreme Court, New York County
Docket Number: Index No. 159354/2020
Judge: Arlene P. Bluth
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARLENE BLUTH **PART** **14**

Justice

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CITY NATIONAL BANK,

Plaintiff,

- v -

BABY BLUE DISTRUBUTIONS, INC., BABY BLUE 7,
INC., 3509 JUNCTION LLC, SHLOMO TAMIR

Defendants.

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INDEX NO. 159354/2020

MOTION DATE 11/29/2021

MOTION SEQ. NO. 003

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 003) 44, 45, 46, 47, 48, 49, 50, 51, 62, 75, 76, 78, 79, 80, 81, 82, 83, 84

were read on this motion to/for

ENFORCEMENT

The motion by plaintiff for an order directing the Sheriff to levy execution of the judgment against defendants against three properties formerly owned by defendant Tamir is granted.

Background

In this case about a promissory note, the Court previously granted plaintiff's application for summary judgment in lieu of complaint and awarded plaintiff a judgment for over \$1 million. Plaintiff now claims that subsequent to the entry of the judgment, defendant Tamir attempted to shield his assets by transferring his ownership of three real estate parcels to three separate limited liability companies. Plaintiff asks the Court to void those transfers and instruct the Sheriff to execute against these properties.

Plaintiff points out that it entered a money judgment against defendants on January 4, 2021 and that Tamir deeded the three properties in April 2021. It argues that these transfers were fraudulent and designed to frustrate plaintiff's post-judgment collection efforts. Plaintiff also points out that none of the three LLCs that obtained the deeds paid any consideration for these properties. Plaintiff relies on CPLR 5203(a) in support of its claim that these transfers should be disregarded.

In opposition, defendants claim that this Court lacks jurisdiction over these LLC entities and that they should not be deprived of these properties without due process. Defendants claim that these are necessary parties who must be in this case before plaintiff can seek the relief requested in this motion.

In reply, plaintiff claims that defendants only offered vague defenses the LLCs might offer if they were in this case. It emphasizes that defendants did not bother to argue that the transfers were anything other than fraudulent. Plaintiff contends that New York's Uniform Voidable Transactions Act permits it to seek relief in this motion rather than start a new case to execute the judgment against the properties.

Discussion

CPLR 5203(a) provides that: "(a) Priority and lien on docketing judgment. No transfer of an interest of the judgment debtor in real property, against which property a money judgment may be enforced, is effective against the judgment creditor either from the time of the docketing of the judgment with the clerk of the county in which the property is located until ten years after filing of the judgment-roll, or from the time of the filing with such clerk of a notice of levy pursuant to an execution until the execution is returned."

“Pursuant to CPLR 5203(a), a judgment becomes a lien against real property as soon as it is docketed. It attaches to any property in which the debtor has an interest at that time and remains effective against such property for a period of 10 years. Any transfer of the judgment debtor's interest in the property after the judgment is docketed is ineffective against the judgment creditor” (*Cadle Co. v Calcador*, 85 AD3d 700, 702, 926 NYS2d 106 [2d Dept 2011] [citations omitted]).


Here, there is no dispute that plaintiff docketed the judgment in Kings County (where all three properties are located) before Tamir transferred his ownership of these three properties to LLCs. That justifies granting plaintiff’s motion. The fact is that defendant Tamir transferred his ownership in these properties *after* plaintiff secured a judgment against him. Under CPLR 5203(a) and under the Uniform Voidable Transactions Act, that permits plaintiff to seek enforcement of the judgment against the three properties at issue.

When plaintiff docketed the judgment in Kings County, it obtained a lien on these properties and the subsequent transfers were therefore ineffective against plaintiff. The Court also observes that defendant Tamir did not submit an affidavit in opposition justifying these transfers or explaining why the Court should not view them as a blatant and obvious attempt to avoid plaintiff’s collection efforts. Instead, defendants only offered a general argument regarding due process. That was insufficient to compel the Court to deny the motion.

Accordingly, it is hereby

ORDERED that the motion by plaintiff is granted and the New York City Marshal or Sheriff is directed to levy execution and satisfy plaintiff’s January 4, 2021 judgment against the three properties formerly owned by defendant Tamir located at 1756 East 23rd Street, Brooklyn,

NY 11229, 1765 East 23rd Street, Brooklyn, NY 11229 and 1764 East 23rd Street, Brooklyn, NY 11229.

<u>11/30/2021</u> DATE					 ARLENE BLUTH, J.S.C.			
CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED		<input type="checkbox"/>	NON-FINAL DISPOSITION			
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/>	SUBMIT ORDER		<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/>	FIDUCIARY APPOINTMENT		<input type="checkbox"/>	