

Folkson 62nd St. Inter Vivos Trust v Wong
2021 NY Slip Op 32853(U)
December 27, 2021
Supreme Court, New York County
Docket Number: Index No. 151409/2021
Judge: Alexander M. Tisch
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTYPRESENT: HON. ALEXANDER TISCH PART 18

Justice

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INDEX NO. 151409/2021FOLKSON 62ND STREET INTER VIVOS TRUST, BY
SEAN FOLKSON, AS TRUSTEE, SEAN FOLKSON,
MIRELLA FOLKSONMOTION DATE 10/15/2021MOTION SEQ. NO. 002

Plaintiff,

- v -

DECISION + ORDER ON
MOTION

STEVEN WONG,

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 23, 24, 25, 26, 27,
28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38

were read on this motion to/for

JUDGMENT - DEFAULT

Upon the foregoing documents, it is ORDERED that those branches of the motion for leave
to enter default judgment is granted in part as to the first and second causes of action; and it is
further

ORDERED, ADJUDGED, and DECLARED that any right, claim, title, or interest claimed
by defendant Steven Wong in the premises located at 350 East 62nd Street, apartment 1J in New
York, New York 10607 (the premises) is hereby extinguished; and it is further

ORDERED, ADJUDGED and DECLARED that plaintiff FOLKSON 62ND STREET
INTER VIVOS TRUST is the sole owner of the premises and holds title to it in fee simple absolute;
and it is further

ORDERED and ADJUDGED that any express and/or implied vendor's lien on the
premises is foreclosed, and any right, claim, title, or interest defendant STEVEN WONG may have
or had in the premises is hereby extinguished; and it is further

ORDERED that the remaining claims are severed and shall proceed as set forth below; and it is further

ORDERED those branches of the motion for leave to enter default judgment on the third and fourth causes of action (breach of promissory note and accounting, respectively) are granted; and it is further

ORDERED that a Judicial Hearing Officer (“JHO”) or Special Referee shall be designated to hear and report to this court on the following individual issues of fact, which are hereby submitted to the JHO/Special Referee for such purpose:

- (1) the issue of reasonable attorneys’ fees for plaintiffs’ counsel, as permitted in the note (NYSCEF Doc No. 28);
- (2) the issue of the amount due to plaintiff pursuant to the note and mortgage;
- (3) the issue of the taking and stating of an account of all rents, income, and profits received by defendant at and from the premises described above and in the complaint in this action for the following period: from March 1, 2020 to August 31, 2021; and it is further

ORDERED that the powers of the JHO/Special Referee shall not be limited beyond the limitations set forth in the CPLR; and it is further

ORDERED that this matter is hereby referred to the Special Referee Clerk (Room 119, 646-386-3028 or spref@nycourts.gov) for placement at the earliest possible date upon the calendar of the Special Referees Part (Part SRP), which, in accordance with the Rules of that Part (which are posted on the website of this court at www.nycourts.gov/supctmanh at the “References” link), shall assign this matter at the initial appearance to an available JHO/Special Referee to hear and report as specified above; and it is further

ORDERED that counsel shall immediately consult one another and counsel for plaintiff/petitioner shall, within 15 days from the date of this Order, submit to the Special Referee Clerk by fax (212-401-9186) or e-mail an Information Sheet (accessible at the "References" link on the court's website) containing all the information called for therein and that, as soon as practical thereafter, the Special Referee Clerk shall advise counsel for the parties of the date fixed for the appearance of the matter upon the calendar of the Special Referees Part; and it is further

ORDERED that on the initial appearance in the Special Referees Part the parties shall appear for a pre-hearing conference before the assigned JHO/Special Referee and the date for the hearing shall be fixed at that conference; the parties need not appear at the conference with all witnesses and evidence; and it is further

ORDERED that, except as otherwise directed by the assigned JHO/Special Referee for good cause shown, the trial of the issue(s) specified above shall proceed from day to day until completion and counsel must arrange their schedules and those of their witnesses accordingly; and it is further

ORDERED that counsel shall file memoranda or other documents directed to the assigned JHO/Special Referee in accordance with the Uniform Rules of the Judicial Hearing Officers and the Special Referees (available at the "References" link on the court's website) by filing same with the New York State Courts Electronic Filing System (see Rule 2 of the Uniform Rules); and it is further

ORDERED that any motion to confirm or disaffirm the Report of the JHO/Special Referee shall be made within the time and in the manner specified in CPLR 4403 and Section 202.44 of the Uniform Rules for the Trial Courts; and it is further

ORDERED that, unless otherwise directed by this court in any Order that may be issued together with this Order of Reference to Hear and Report, the issues presented in any motion identified in the first paragraph hereof shall be held in abeyance pending submission of the Report of the JHO/Special Referee and the determination of this court thereon; and it is further

ORDERED that defendant shall produce before the Referee, on a schedule to be fixed by the Referee, all books, papers, and documents in the custody or under the control of defendant that relate to the rents, income, and profits of the aforesaid premises.

This constitutes the decision and order of the Court.

<u>12/27/2021</u>			
DATE		ALEXANDER TISCH, 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