

Bank of Am., N.A. v Charles
2022 NY Slip Op 30433(U)
January 10, 2022
Supreme Court, Kings County
Docket Number: Index No. 527511/2019
Judge: Katherine A. Levine
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At IAS Part 25 of the Supreme Court
of the State of New York, King County, at
the Courthouse located at 360 Adams Street,
Brooklyn, New York 11201, on the 10th
day of January, 2022.

PRESENT: HON. KATHERINE A. LEVINE
J. S. C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----x Index No: 527511/2019

Bank of America, N.A.,

Plaintiff,

JUDGMENT

-against-

Juliet Charles, WMC Mortgage Corp., New York City
Environmental Control Board, New York City Transit
Adjudication Bureau, Wells Fargo Bank, N.A., Halsey
Management, Inc., City Register of the City of New York,

Defendants.

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Plaintiff, Bank of America, N.A., having moved this Court for an Order Granting
Judgment in equity and pursuant to Article 15 of the Real Property Actions and Proceedings Law
to discharge from the record a Full Discharge of Mortgage dated November 20, 2019 and
recorded in the Office of the City Register of the City of New York on November 21, 2019 in
CRFN 2019000380339, reinstating the mortgage dated April 2, 2004 and recorded August 2,
2004 in CRFN 2004000471725, erroneously satisfied thereby, and to determine claims to the
real property commonly known as 1672 East 48th Street, Brooklyn, New York 11234 with a tax
map designation of Block 7872, Lot 70 and the said Motion having regularly come on to be
heard on or about December 4, 2020 and plaintiff having appeared by its attorney Howard
Kleiman, Esq. who argued in favor of the relief requested in the complaint and

December 4, 2020 having appeared on behalf of defendant New York City Transit Adjudication Bureau, and having taken no position on the relief requested in the complaint, and upon all of the papers and proceedings heretofore had herein and with due deliberation having been had thereon.

NOW, upon the reading and filing of the Summons, Complaint and Notice of Pendency duly filed in this action on December 18, 2019, and all proceedings thereon, and on the reading and the filing of the affirmation of Howard Kleiman, Esq., dated July 16, 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 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 December 18, 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 pursuant to *Barclays Bank of New York*, 96 A.D. 2d 594, 464 N.Y.S. 2d 1016 (Second Dept. 1983); *Deutsche Bank Trust Co. V. Stathakis*, 99 A.D. 3d 983, 935 N.Y.S. 2d 651 (Second Dept. 2011) and *Citibank, N.A. v Kenney*, 17 A.D.3d 305, 308 (2d Dep't 2005) the Full Discharge of Mortgage dated November 20, 2019 and recorded in the Office of the City Register of the City of New York on November 21, 2019 in CRFN 2019000380339 be deemed and declared void and of no effect and be discharged of record; and it is further

ORDERED, ADJUDGED AND DECREED that pursuant to *Barclays Bank of New York*, 96 A.D. 2d 594, 464 N.Y.S. 2d 1016 (Second Dept. 1983); *Deutsche Bank Trust Co. V. Stathakis*, 99 A.D. 3d 983, 935 N.Y.S. 2d 651 (Second Dept. 2011) and *Citibank, N.A. v Kenney*, 17 A.D.3d 305, 308 (2d Dep't 2005), the mortgage dated April 2, 2004 and recorded August 2, 2004 in CRFN 2004000471725 is and is hereby restored as a valid lien on real property known as and by the street address 1672 East 48th Street, Brooklyn, New York 11234 with a tax map designation of Block 7872, Lot 70; and it is further

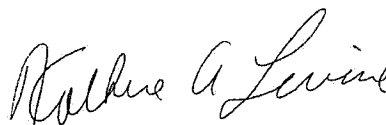
ORDERED, ADJUDGED AND DECREED that pursuant to *Citibank, N.A. v Kenney*, 17 A.D.3d 305, 308 (2d Dep't 2005), Plaintiff is the holder of an equitable lien on the Premises in the amount of the balance due on the unpaid Plaintiff's Mortgage; and it is further

ORDERED, ADJUDGED AND DECREED that, pursuant to RPAPL § 1521, the Plaintiff has a valid 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 as estate or interest superior to that of the Plaintiff; and it is further

ORDERED, ADJUDGED AND DECREED that, upon presentation of a certified copy of the judgment of this Court and upon payment of the usual and customary fees, the City Register of the City of New York is hereby directed to record a certified copy of this judgment and to mark the records that the Full Discharge of Mortgage dated November 20, 2019 and recorded in the Office of the City Register of the City of New York on November 21, 2019 in CRFN 2019000380339 is vacated and discharged from the record and that the mortgage dated April 2, 2004 and recorded August 2, 2004 in CRFN 2004000471725, erroneously satisfied thereby, is restored and reinstated as a valid lien on real property known as and by street address of 1672 East 48th Street, Brooklyn, New York 11234 with a tax map designation of Block 7872, Lot 70.

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

Enter:



HON. KATHERINE A. LEVINE
J. S. C.

HON. KATHERINE A. LEVINE
JUSTICE SUPREME COURT