

**IHG Harlem I LLC v 406 Manhattan LLC**

2022 NY Slip Op 34687(U)

March 17, 2022

Supreme Court, New York County

Docket Number: Index No 161863/2015

Judge: Lynn R. Kotler

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This opinion is uncorrected and not selected for official publication.

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At the IAS Part 8 of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse thereof, located at 80 Centre Street, New York, NY 10013 on the 17th day of March, 2022

PRESENT:  
HON. LYNN R. KOTLER, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
IHG HARLEM I LLC,

Plaintiff,

-against-

406 MAHATTAN LLC and BX524 LLC

Defendants

-and-

-----X

Index No. 161863/2015



**AMENDED  
ORDER  
AND JUDGMENT**

Plaintiff IHG Harlem I LLC ("IHG"), having filed (i) a complaint against 406 Manhattan LLC ("Manhattan LLC") on November 17, 2015 (Index No. 161863/2015) seeking specific performance and damages (compensatory and punitive) in the amount of \$1,000,000.00 for breach of contract by Manhattan LLC on a contract of sale for the property that Manhattan LLC owns at 514-516 West 146th Street, New York, NY (Block 2077, Lot 39) to IHG under the terms of a contract of sale that the parties entered into on or about August 13, 2015 and Manhattan LLC having filed an answer and a counterclaim against IHG seeking an order declaring IHG in default and authorizing the \$200,000.00 down payment that IHG deposited at contract be paid to Manhattan LLC as liquidated damages; (ii) a complaint against Manhattan LLC on November 17, 2015 (Index No. 161853/2015) seeking specific performance and damages (compensatory and punitive) in the amount of \$1,000,000.00 for breach of contract by Manhattan LLC on a contract of sale for the property that Manhattan LLC owns at 506-508

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West 146th Street, New York, NY (Block 2077, Lot 37) to IHG under the terms of a contract of sale that the parties entered into on or about August 13, 2015 and Manhattan LLC having filed an answer and a counterclaim against IHG seeking an order declaring IHG in default and authorizing the \$200,000.00 down payment that IHG deposited at contract be paid to Manhattan LLC as liquidated damages; and (iii) a complaint against BX 524 LLC ("BX LLC") on November 17, 2015 (Index No. 161845/2015) seeking specific performance and damages (compensatory and punitive) in the amount of \$1,000,000.00 for breach of contract by BX LLC on a contract of sale for the property that BX LLC owns at 524-526 West 159th Street (Block 2117, Lot 23) to IHG under the terms of a contract of sale that the parties entered into on or about August 13, 2015 and BX LLC having filed an answer and a counterclaim against IHG seeking an order declaring IHG in default and authorizing the \$226,250 down payment that IHG deposited at contract be paid to BX LLC as liquidated damages; so that the aggregate amount deposited on contract and being held in escrow by Joseph Levin, Esq., designated as escrow agent by the parties pursuant to the respective contracts of sale, is \$626,250.00 and the three actions (index nos: 161863/2015; 161853/2015; and 161845/2015) being consolidated into a single action on or about January 28, 2016 under index no: 161863/2015; and

IHG having moved, pursuant to CPLR 3212, for partial summary judgment on its complaint, abandoning its claim for specific performance, and seeking an order determining liability of defendants Manhattan LLC and BX LLC ("Defendants") for breach of contract, setting an inquest on damages, and dismissing Defendants' counterclaims, and the motion having been duly heard, and the Court having granted IHG's motion in favor of IHG on May 18, 2020 ("Order") (i) holding that the Defendants breached all three contracts; (ii) dismissing defendants'

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counterclaims for the return of the down payments held in escrow; and (iii) ordering a trial as to damages; and

Defendants having appealed the Order to the Appellate Division, First Department, and the First Department having issued a Decision and Order on December 2, 2021 (“Appellate Order”), which: (i) affirmed, without costs, the holding that Defendants were liable to IHG for breach of the three contracts and the dismissal of Defendants’ counterclaims against IHG; (ii) held that, pursuant to the contracts of sale, IHG’s sole remedy was the return of its deposits; and (iii) modified the Order to delete the language about a trial on damages, and to direct a return of the deposits to IHG as liquidated damages under the terms of the contracts; and

NOW, on remittitur from the Appellate Division, First Department, it is

ORDERED and ADJUDGED that escrow agent Joseph Levin, Esq. is directed to return to IHG the deposits being held in escrow pursuant to the contracts of sale; and it is further

ORDERED that the Clerk is directed to enter judgment accordingly together with costs and disbursements in favor off plaintiff IHG Harlem I LLC and against defendants 406 Manhattan LLC and BX 524 LLC to be taxed by the clerk.


**FILED**  
**Nov 14 2022**  
NEW YORK  
COUNTY CLERK'S OFFICE

**FILED**  
**NOV 14 2022**  
AT 09:35 A M  
N.Y. CO. CLK'S OFFICE

~~ENTER~~



J.S.C. **HON. LYNN R. KOTLER**



clerk

14 th Nov. 2022