

Matter of Vashovsky v Zablocki
2023 NY Slip Op 32000(U)
June 13, 2023
Supreme Court, Kings County
Docket Number: Index No. 528729/2022
Judge: Leon Ruchelsman
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS: COMMERCIAL DIVISION

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In the Matter of the Application
of CHANA VASHOVSKY,
individually and derivatively

Index No. 528729/2022

On behalf of HUDSON VALLEY NY HOLDINGS LLC,
Petitioner,

For the Dissolution of HUDSON VALLEY NY IN
SUPPORT OF MOTION HOLDINGS LLC and other
relief, TO DISMISS PETITION

-against-

Decision and Order

YOSEF ZABLOCKI and
NATIONAL JEWISH CONVENTION CENTER,

Respondents,

-and-

June 13, 2023

HUDSON VALLEY NY HOLDINGS LLC,

Nominal Defendant,

-----X
HON. LEON RUCHELSMAN

Motion Seq. #4

The respondent has moved pursuant to CPLR §3211 seeking to
reargue a decision and order dated March 15, 2023 granting
dissolution. The petitioner has opposed the motion. Papers were
submitted by the parties and after reviewing all the arguments
this court now makes the following determination.

As recorded in prior orders in a companion case (Index
Number 507373/2021) the petitioner and respondent are partners in
Hudson Valley NY Holdings LLC, an entity that owns the Hudson
Valley Resort Hotel. The parties have each accused the other of
misappropriation, breaches of fiduciary duty and other
improprieties. This action and petition seeking dissolution was

filed and the court granted the petitioner's request seeking dissolution and denied the respondent's request seeking an equitable buy-out. In the decision granting dissolution and in a decision in the companion case the court permitted the respondent the right of first refusal in purchasing the property and in addition permitted funds already furnished by respondent to act as a reduction of the purchase price. The petitioner vigorously disputes the nature of payments made by the respondent, however, in any event the court permitted such reduction.

The respondent now moves seeking to reargue the above noted determinations and to permit, instead of dissolution, an equitable buy-out. The basis for such buy-out is the fact that the respondent has contributed more funds than petitioner and that without such buy-out the respondent is at a financial disadvantage.

In the motion seeking to reargue the dissolution decision the respondent submitted an affidavit and specifically asked for a reduction of the purchase price already paid. The respondent did not request a reconsideration of the dissolution *per se* but rather that the price offered should be reduced. The court granted that request and reduced the amount by contributions made since the receiver had been appointed. This motion seeking reargument is really a motion the court did not reduce the purchase price by the correct amount and failed to include

contributions made prior the appointment of the receiver.

First, that is not a legal argument that is proper in a motion to reargue. There is no legal principle that is urged has been improperly applied or any facts that have been misapprehended. Rather, the motion merely seeks to convince the court to further reduce the purchase price in favor of respondent and the only way to accomplish that is to grant a buy-out instead of dissolution.

More importantly, there is no argument presented why the court erred in concluding dissolution is proper. There are no countervailing facts presented that really the parties can work together and that dissolution should be reconsidered for that reason. Again, the sole basis seeking reargument is the one-sided desire to benefit the respondent's financial position. While that desire is important and critical to the respondent the court must consider all parties as well as the legal arguments presented. The court's selection of contributions since the appointment of a receiver was not arbitrary, rather, it was based upon the fact since that date all contributions were recorded and accounted. Indeed, the respondent himself explained there were three critical time frames considering the contributions he made. The first ran from April 2019 to October 2020 where "no adjustments to the amounts of proceeds to be received by Defendants [respondent here] is necessary" (see, Affirmation in

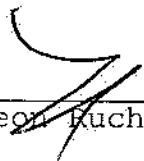
Support, ¶ 14 [Index Number 507373/2021, NYSCEF Doc. No. 546]).

The second time frame ran from October 2020 until the appointment of a receiver in March 2021. The respondent argues that the proper amounts owed to each party and particularly to the respondent should be the subject of a hearing, fully acknowledging the amount to which the respondent may be entitled is subject to dispute. Therefore, the court only based any reduction due to the respondent upon the third time frame, namely since a receiver has been appointed. These amounts are verified (notwithstanding their nature is disputed) and the court deemed them proper. The court declines the request to further credit the contributions of the respondent that are admittedly disputed. Indeed, the respondent's motion is really an attempt to try and secure, as much as possible, the investment made by respondent. That goal is not shared by the court and since there has been no basis presented why the prior decision of the court was in error, the motion seeking reargument is consequently denied.

So ordered.

ENTER:

DATED: June 13, 2023
Brooklyn N.Y.



Hon. Leon Buchelsman
JSC