

Continental Residential v Chong Duk Chung

2024 NY Slip Op 32074(U)

June 13, 2024

Supreme Court, New York County

Docket Number: Index No. 654113/2016

Judge: Emily Morales-Minerva

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. EMILY MORALES-MINERVA

PART 42M

Justice

-----X

CONTINENTAL RESIDENTIAL,

INDEX NO. 654113/2016

Plaintiff,

- v -

**ORDER
UPON INQUEST**

CHONG DUK CHUNG, INTEGREE SPA & BEAUTY, INC.,
AS SUCCESSOR-IN-INTEREST TO PARK SEUNG CHOL
HAIR STUDIO, INC.,

Defendants.

-----X

APPEARANCES:

Gutman, Mintz, Baker & Sonnenfeld, LLP, New Hyde Park, NY
(Young Yu Yoo, Esq., and Joseph A. Rodriguez, Esq., of
counsel), for plaintiff.

HON. EMILY MORALES-MINERVA:

In this action for breach of contract, the Court held an
inquest in Part 42, 111 Centre Street, New York, NY, on June 12,
2024, at 10:00 AM. At the call of the calendar, counsel for
plaintiff CONTINENTAL RESIDENTIAL appeared. However, defendant
CHONG DUK CHUNG, and defendant INTEGREE SPA & BEAUTY, INC., as
SUCCESSOR-IN-INTEREST TO PARK SEUNG CHOL HAIR STUDIO, INC., did
not appear and did not contact the Court with an excuse or a
request for an adjournment.

Plaintiff provided the Court with proof of service of this Court's Order, dated April 08, 2024, with notice of entry on defendant CHONG DUK CHUNG (see NY St Cts Elec Filing [NYSCEF] Doc. No. 92, notice of entry, dated April 12, 2024, at 5). Pursuant to 22 NYCRR § 202.27, said order found defendant CHONG DUK CHUNG in default, ordered an inquest, and set the return date on the inquest.

Following proof of service, plaintiff called its first and only witness Alyson Kurz. Alyson Kurz is the collections manager for non-party Clinton Management, a property management company providing services to plaintiff as landlord of the subject commercial property.

Through the testimony of Alyson Kurz, plaintiff introduced, and the Court admitted into evidence the following documents: (1) the Lease between plaintiff and non-party Park Seung Chol Hair Studio, Inc., and attached Guaranty of said Lease, dated September 30, 2006, executed between plaintiff and defendant CHONG DUK CHUNG, as an individual, before a notary, in favor of plaintiff (plaintiff's exhibit 1); (2) a sublease agreement, dated April 29, 2011, between Park Seung Chol Hair Studio, LLC, and non-party New Corp./99 [cent] Fresh Pizza (plaintiff's exhibit 2); (3) a Resident Ledger for the subject premises, dated May 31, 2024, indicating charges and payments on the lease from May 01, 2007 to July 31, 2017 (plaintiff's exhibit 3); and

(4) Charge/Credit Authorization form, signed October 19, 2015, between non-party Clinton Management and Park Seung Chol Hair Studio, Inc. (petitioner's exhibit 4).

Thereafter, plaintiff concluded its presentation on the inquest. On record, plaintiff withdrew all its causes of action, except for plaintiff's second cause of action against defendant CHONG DUK CHUNG, representing the sublease profit fees. Plaintiff withdrew its complaint entirely against defendant Park Seung Chol Hair Studio, LLC. Plaintiff closed its case, arguing that it has proven damages in the amount of \$144,453.76 in sublease profit fees.

The Court agrees, based on the credible testimony of Alyson Kurz (see generally Green v Bermudez-Thrush, 60 Misc 3d 130[A], 2018 NY Slip Op 50992[U], *1-2 [App Term 2018] [discussing the trial court's "better perspective from which to assess" testimony]), the evidence admitted, and the applicable law.

Accordingly, it is

ORDERED that the Clerk shall enter judgment on the second cause of action for plaintiff CONTINENTAL RESIDENTIAL against defendant CHONG DUK CHUNG in the amount of \$144,453.76 with interest from May 01, 2011; and it is further

ORDERED that the remaining causes of action against defendant CHONG DUK CHUNG are dismissed as withdrawn; and it is further

ORDERED that the complaint is dismissed in its entirety against defendant INTEGREE SPA & BEAUTY, INC., as SUCCESSOR-IN-INTEREST TO PARK SEUNG CHOL HAIR STUDIO, INC., as withdrawn.

This Constitutes the Decision and Order of the Court.

DATE: 6/13/2024

Emily Morales-Minerva
EMILY MORALES-MINERVA, JSC

Check One: Case Disposed Non-Final Disposition
Check if Appropriate: Other (Specify _____)