

**Yuhe Wang v Circa Mirai Group LLC**

2024 NY Slip Op 33006(U)

August 23, 2024

Supreme Court, New York County

Docket Number: Index No. 158586/2023

Judge: Nicholas W. Moyne

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. NICHOLAS W. MOYNE PART 41M**

*Justice*

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YUHE WANG,

Plaintiff,

- v -

CIRCA MIRAI GROUP LLC, CIRCA MIRAI PROPERTIES  
LLC, CIRCA MIRAI DEVELOPMENT LLC, FAN LIU

Defendant.

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INDEX NO. 158586/2023

MOTION DATE 11/14/2023

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23

were read on this motion to/for TURNOVER PROCEEDING

Upon the foregoing documents, it is

The underlying action was commenced, pursuant to CPLR § 5402, by Plaintiff/Judgment Creditor, Yuhe Wang, seeking recognition and entry of the foreign judgment, entered against Defendants/Judgment Debtors, Circa Mirai Group LLC, Circa Mirai Properties LLC, Circa Mirai Development LLC, and Fan Lui, on June 12, 2023, by the Superior Court of New Jersey in: *Yuhe Wang v. Circa Mirai Group LLC, Circa Mirai Properties LLC, Circa Mirai Development LLC and Fan Liu*, Docket Number BER-L-007938-21, in the amount of \$1,608,082.00. In accordance with CPLR § 5402, this foreign judgment was filed with the New York County Clerk’s Office on August 30, 2023 (NYSCEF Doc. No. 5).

Now, in Motion Sequence 001, Plaintiff/Judgment Creditor Wang seeks an order, pursuant to CPLR § 5225(a), directing the Defendant/Judgment Debtor Fan Liu to turnover his ownership interest in the entity known as 1419 WK Owner LLC, a Delaware Limited Liability Company, in enforcement and/or partial satisfaction of said money judgment.

CPLR § 5225(a) provides that where it is shown that the judgment debtor is in possession or custody of money or other personal property in which he has an interest, the court shall order that the judgment debtor pay the money, or so much of it as is sufficient to satisfy the judgment, to the judgment creditor. Plaintiff/Judgment Creditor contends that, under CPLR § 5201, a judgment debtor's property includes shareholder/membership or ownership interests in an entity and therefore, a judgment creditor is entitled to turnover order with respect to those interests a judgment debtor owns and which is in their possession or custody (*see 79 Madison LLC v Ebrahimzadeh*, 203 AD3d 589 [1st Dept 2022]). Therefore, Plaintiff/Judgment Creditor asserts that as Liu owns 1419 WK Owner LLC, it is subject to a turnover order. Defendant/Judgment Debtor opposes the motion, contending that Plaintiff/Judgment Creditor has failed to demonstrate that Liu is the owner, owned membership interest in, or actually has an interest in the assets of 1419 WK Owner LLC or has such property in his possession or custody.

The Court declines to discuss the merits of these arguments as the motion must be denied for a lack of personal jurisdiction. Although this argument was not raised by the parties, the motion must be denied as the Plaintiff/Judgment Creditor has failed to establish that a New York court has personal jurisdiction over any of the Defendants/Judgment Debtors, and therefore, the property at issue. Importantly, there is almost nothing in the papers to suggest the Plaintiff/Judgment Creditor or Defendants/Judgment Debtors connection to New York at all.

Plaintiff/Judgment Creditor has failed to allege or establish jurisdiction over Liu individually, pursuant to CPLR § 301, as there are no allegations nor evidence to suggest that Liu is domiciled in the state or that his contacts with the forum are so extensive as to support jurisdiction notwithstanding domicile elsewhere (*see IMAX Corp. v The Essel Group*, 154 AD3d 464, 466 [1st Dept 2017]; *Reich v Lopez*, 858 F3d 55, 63 [2d Cir 2017]). Nor are there

allegations or evidence to suggest the same of the entity Defendants/Judgment Debtors or the subject money or property.

Importantly, Plaintiff/Judgment Creditor has failed to establish personal jurisdiction over any of the Defendants/Judgment Debtors under any of the methods set forth in CPLR § 302. CPLR § 302 permits New York courts to exercise personal jurisdiction over a nondomiciliary if he has purposefully transacted business within the state and there is a substantial relationship between the transaction and the claim asserted (*Black v Phoenix Cayman Ltd.*, 224 AD3d 494, 494 [1st Dept 2024]). Additionally, personal jurisdiction may be conferred by means of: committing a tortious act in the state; committing a tortious act without the state causing injury to person or property within the state if he regularly does or solicits business and expects or reasonably should expect the act to have consequences in the state; or owning, using or possessing any real property situated within the state (*see* CPLR § 302[a][1]-[4]).

The Plaintiff/Judgment Creditor alleges that they are a citizen and resident of the People's Republic of China and asserts that Defendant/Judgment Debtor Liu "is an individual with a place of business at Hongkun USA, 888 7th Avenue, 28th Floor, New York, New York 10019" (NYSCEF Doc. No. 8 ¶ 5). However, there is no evidence of a Liu having a place of business in New York, aside from this allegation. Instead, the documents provided by the Plaintiff/Judgment Creditor demonstrate that the address of the Hongkun USA-entity is listed as the Fort Lee, New Jersey address (NYSCEF Doc. No. 20; 21). Additionally, the addresses of the Defendants/Judgment Debtors are all listed as those in New Jersey, the subject bank accounts are held in New Jersey, and there are no allegations about property being located or used, a tortious act having been committed within, a tortious act having been committed without but which causes injury to be felt within, or the entities or Liu conducting business or transacting, in the

state of New York (see NYSCEF Doc. No. 10; 20-22). Aside from the mere domestication of the foreign judgment, none of the parties, property, or purported acts occurred or have any connection to, New York.

Accordingly, it is hereby

ORDERED that as the Court cannot establish personal jurisdiction over the Defendants/Judgment Debtors, the motion is DENIED; and it is further

ORDERED that the action is DISMISSED, without costs and disbursements, and the Clerk of the Court is directed to enter judgment accordingly.

This constitutes the decision and order of the court.

8/23/2024  
DATE

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NICHOLAS W. MOYNE, 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