

Trinity Ctr. LLC v BrooklynWorks at 159, LLC

2024 NY Slip Op 33794(U)

October 10, 2024

Supreme Court, New York County

Docket Number: Index No. 654633/2020

Judge: Debra A. James

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. DEBRA A. JAMES

PART 59

Justice

-----X

TRINITY CENTRE LLC,

Plaintiff,

- v -

BROOKLYNWORKS AT 159, LLC, SEED HOMES, INC,
VICRUM PURI, RAYA PURI, and WELLNESSWORKS AT
TRINITY CENTRE, LLC, D/B/A LINA FIDI,

Defendants.

-----X

INDEX NO. 654633/2020

MOTION DATE 07/23/2021

MOTION SEQ. NO. 001 002

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 54, 55, 56, 57, 58, 119, 120

were read on this motion to/for DISMISSAL.

The following e-filed documents, listed by NYSCEF document number (Motion 002) 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118

were read on this motion to/for SUMMARY JUDGMENT (AFTER JOINDER).

ORDER

Upon the foregoing documents, it is

ORDERED that the motion of the defendants Vicrum Puri and Raya Puri to dismiss the fourth and fifth causes of action of the complaint against each of them (motion sequence number 001) is denied; and it is further

ORDERED that the motion of the plaintiff Trinity Centre LLC for summary judgment (motion sequence number 002) is granted to the extent of partial summary judgment as to liability on its first cause of action for breach of lease against BrooklynWorks at 159,

LLC, and its second cause of action for breach of the assignment agreement against WellnessWorks at Trinity Centre, LLC, d/b/a Lini Fidi; and it is further

ORDERED that the cross-motion of the defendant BrooklynWorks at 159, LLC, for summary judgment on its cross-claims against the defendant WellnessWorks at Trinity Centre, LLC, d/b/a Lina Fidi for breach of the Assignment Agreement is granted, as to partial summary judgment of liability; and it is further

ORDERED that the assessment of damages on the first and second causes of action of the complaint against the defendants BrooklynWorks at 159, LLC, and WellnessWorks at Trinity Centre, LLC, d/b/a Lina Fidi and on the cross-claim of defendant BrooklynWorks at 159, LLC, against defendant WellnessWorks at Trinity Centre, LLC, shall take place at the trial of the third, fourth, and fifth causes of action (latter as part the damages with respect to the third and fourth claims of the complaint); and it is further

ORDERED that counsel are directed to post on NYSCEF a joint proposed preliminary discovery conference order or competing proposed preliminary discovery conference order(s) at least two days before October 29, 2024, on which date counsel shall appear via Microsoft Teams, unless such appearance (upon joint request transmitted to IAS Part 59 Clerk [SFC-Part59-Clerk@nycourts.gov]) be waived by the court.

DECISION

In this action, plaintiff Trinity Centre LLC, as landlord, seeks damages for, inter alia, failure to remit monthly rent, against defendant BrooklynWorks at 159, LLC ("BrooklynWorks"), as tenant, under a Lease ("Lease") for premises located at 115 Broadway, New York, New York (the "Premises"). The term of the Lease is from February 27, 2017, through January 31, 2033. NYSCEF Doc. No. 003.

By executing a Guaranty, the defendants Vicrum Puri ("Vicrum") and Raya Puri (collectively the "Guarantors") jointly and severally personally guaranteed the Lease (the "Guaranty"). NYSCEF Doc. No. 004.

On January 4, 2019, BrooklynWorks assigned the Lease to defendant WellnessWorks at Trinity Centre, LLC, d/b/a Lina Fidi ("WWATC") under an assignment (the "Assignment"). NYSCEF Doc. No. 006. Vicrum was the sole member of BrooklynWorks and WWATC at the time.

Beginning in March 2020, WWATC failed remit the monthly rent to Trinity, and Trinity, thereafter, served a letter of default, accelerating the rent, upon defendants, and the commenced this action seeking to enforce the terms of the Lease, the Assignment and the Guaranty.

The Guarantors' Motion to Dismiss (Motion Sequence Number 001)

In motion sequence number 001, the Guarantors move to dismiss the fourth cause of action for breach of the Guaranty on the basis that the Premises was vacated as of June 1, 2020, which triggered the termination of any Guarantor obligations under the Guaranty. The Guarantors also assert that the Guaranty is unenforceable under New York City Administrative Code § 22-1005 (the "Guaranty Law").

Under the liberal standards of CPR 3211, this court finds that the complaint sufficiently alleges that Trinity was induced to rent the Premises to BrooklynWorks on the basis of the Guaranty, that Premises was rented to BrooklynWorks, and that the Guarantors breached the Guaranty by failing to pay the outstanding amounts owed by BrooklynWorks under the Lease. See Cargill Soluciones Empresariales, SA de CV, SOFOM, ENR v Farallon, 146 AD3d 439 (1st Dept 2017).

While there is no dispute that BrooklynWorks vacated the Premises on June 30, 2020, the Guarantors fail to establish prima facie that the Premises were left in the condition required to trigger the "Cut-Off Date" under the Guaranty. NYSCEF Document No. 004, Guaranty, p. 1. Moreover, Trinity's Property Manager, by affidavit, with photographs attached, submits evidences that substantial rehabilitation was required to return the Premises to the conditions as of the time they were first leased to defendant BrooklynWorks. NYSCEF Doc. No. 049, ¶ 4-7.

However, this Court finds that the Guaranty Law does apply to the Guarantors on the Lease, which was for shared workspaces (“general and executive offices”, NYSCEF Doc. No. 003, p.1 , ¶2), as such were not “essential services”. Compare 841-853 Fee Owner, LLC v Space Initiatives LLC, 227 AD3d 424 (1st Dept 2024). Nevertheless, such Guaranty Law would not absolve the Guarantors of liability arising from the non-payment of rent that accrued outside of the statutory period set forth in the Guaranty Law, which Trinity seeks in its complaint. See 88 Greenwich Owner LLC v 21 Rector St LLC, 217 AD3d 432, 434 (1st Dept 2023). Lastly, the Guaranty unambiguously provides that Trinity may recover attorney’s fees incurred in the enforcement of the Guaranty. NYSCEF Doc. No. 004, Guaranty, p. 4, ¶ 15.

Thus, the Guarantors’ motion to dismiss must be denied. Trinity’s Motion for Summary Judgment (Motion Sequence Number 002)

In motion sequence 002, Trinity moves for summary judgment on its first and second causes of action for breach of contract against BrooklynWorks and WWATC, respectively.

Trinity alleges that BrooklynWorks breached the Lease by failing to pay monthly rent as set forth under the Lease. Trinity claims that, in addition, WWATC breached the Assignment by failing to pay rent timely under such assignment.

WWATC contends that the purpose of the Lease was frustrated by the pandemic. However, “[t]his Court has rejected frustration

of purpose, impossibility of performance, and failure of consideration as defenses to the nonpayment of rent under a commercial lease as a result of the pandemic.” 841-853 Fee Owner, LLC v Space Initiatives LLC, 227 AD3d 434, 435 (1st Dept 2024). Furthermore, the acceleration of rent in the event of default is expressly stated in the Lease and it is undisputed that “[a]ccelerated rent provisions are routinely enforced”. Elk 33 E. 33rd LLC v Sticky's Corp LLC, 228 AD3d 455, 456 (1st Dept 2024).

BrooklynWorks opposes the motion for summary judgment, and also cross-moves for summary judgment against WWATC. However, BrooklynWorks lays bear no evidence that raises a triable issue of fact with respect to its obligations under the Lease. Nor does the court agree that Trinity was compelled to serve a notice of cancelation upon WWATC. Such assigned Lease provision regarding a notice of termination is precatory not mandatory. NYSCEF Document No. 81, Lease p. 3, ¶ 17 “Default”. The only issue is the extent of the damages, i.e., the amount of outstanding rent, less security deposits, and reasonable attorney’s fees incurred by Trinity in enforcing the Lease, Assignment and Guaranty, which each set forth that Trinity would be entitled to attorneys’ fees incurred in enforcing such agreements.

Finally, the cross-motion for summary judgment of BrooklynWorks'¹ on its cross claims against WWATC is granted. As discussed above, WWATC's argument that the purpose of the Assignment was frustrated by the COVID-19 pandemic has been soundly rejected by the courts. In addition, by the Rental Deferral Agreement dated April 1, 2020, WWATC obligated itself to remit monthly rental to Trinity. NYSCEF Document Number 112. Therefore, pursuant to the Assignment of the Lease, as thereby amended by the Rental Deferral Agreement, from the effective date of such agreement to defer rent, WWATC, reaffirmed that it, in place and stead of BrooklynWorks, was obligated to remit monthly rent to Trinity. WWATC has failed to raise an issue of fact as to its liability on the cross claim interposed by BrooklynWorks to recover from WWATC whatever portion of rent for that time period of WWATC's occupancy that Trinity seeks to recover from BrooklynWorks. Therefore, at the trial of this action, BrooklynWorks will be entitled to an assessment of the amount of damages for that portion of the outstanding rent that BrooklynWorks

¹ For context, Vicrum was the sole member of Brooklyn works at the time of commencement of the Lease, on February 27, 2017. On September, 26, 2019, Vicrum sold BrooklynWorks to non-party Jane Wisehart ("Wisehart"). NYSCEF Doc. No. 093. In an affidavit in opposition to the motion and in support of the cross motion, Wisehart admits that she acquired BrooklynWorks, but contends that she was informed of its Brooklyn location only, and was unaware of the Lease for the Premises that are the subject of the instant action. NYSCEF Doc. No. 093.

owes Trinity, which WWATC is obligated to pay under the Assignment and Rental Deferral Agreement.

Debra A. James

20241010195232DJAMES4C221157FD784D21A6B1B437223DA174

10/10/2024
DATE

DEBRA A. JAMES, 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