

<b>Federal Natl. Mtge. Assn. v Leslie</b>
2024 NY Slip Op 35058(U)
October 1, 2024
Supreme Court, Westchester County
Docket Number: Index No. 66186/2023
Judge: Janet C. Malone
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To commence the statutory time period  
For appeals as of right (CPLR 5513[a]),  
you are advised to serve a copy of this  
order, with notice of entry, on all parties.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----X  
FEDERAL NATIONAL MORTGAGE ASSOCIATION,

INDEX. NO. 66186/2023

Plaintiff,

DECISION AND ORDER

-against-

Motion Seq No. 1 -2

SHARON LESLIE; ANNA’S HOUSE MISSIONS,  
INC.; WESTCHESTER COUNTY CLERK’S OFFICE

Defendants.

-----X  
MALONE, J.

On August 30, 2023, Plaintiff Federal National Mortgage Association (“Fannie Mae”) commenced this action to discharge a Mechanic’s Lien in the amount of \$350,000.00 filed by Sharon Leslie d/b/a Anna’s House Missions, Inc. on October 14, 2022 (NYSCEF Doc. No. 3), on the real property known as 578 East 3rd Street, Mount Vernon, New York 10553 (the “premises”). Defendant Sharon Leslie *pro se* (“Leslie”) appeared submitting an “answer” on November 24, 2023 with general denials (NYSCEF Doc. No. 11). No other defendants appeared or answered although served. (Affidavits of Service, NYSCEF Doc. No. 6-7).

Now before the Court is: 1) Leslie’s Notice of Motion filed on December 5, 2023 seeking to extend the mechanic’s lien without supporting documents (NYSCEF Doc. No. 14) and 2) Fannie Mae’s cross-motion (Mot. Seq. No. 2) seeks denial of Leslie’s motion; granting Fannie Mae summary judgment, striking Leslie’s answer; and vacating and cancelling the expired Mechanic’s Lien filed October 14, 2022 (NYSCEF Doc. No. 27). Fannie Mae’s cross-motion is supported *inter alia* by the Affirmation of Kevin M. Butler, Esq., Affidavit of Brian Kennedy, Real Estate Manager for Fannie Mae, Statement of Material Facts, Judgment of Foreclosure and Sale, Referee’s Deed, Mechanic’s Lien and the Decision and Order of this Court (Wood, J.) in a

prior action between the parties entitled *Sharon Leslie v. Federal National Mortgage Association*, Index No. 67158/2022 (Westc. Sup. Ct.) (NYSCEF Doc. Nos. 27-38). Leslie filed an amended answer (NYSCEF Doc. No. 41) and opposition to Fannie Mae's motion, six months after its submission without leave of the Court (NYSCEF Doc. Nos. 42-76).

The motions are joined for purposes of this decision and are determined as follows:

As relevant background, pursuant to a Judgment of Foreclosure and Sale entered on May 10, 2018, James B. Nutter & Company purchased the premises at a public auction on February 13, 2019, then assigned all its rights, title and interest in the premises to Fannie, which now owns the premises pursuant to a referee's deed dated March 21, 2018 ( NYSCEF Doc. Nos. 30- 32).

When Fannie Mae commenced a residential holdover proceeding against Leslie on May 7, 2022, she was was a tenant at the premises. A mechanic's lien was then filed by Sharon Leslie d/b/a Anna's House Missons, Inc. on October 14, 2022 against the premises in the amount of \$350,000. On October 20, 2022, Leslie commenced an "action alleging that she has an adverse possessory interest in foreclosed upon premises located at 578 E. 3rd Street, Mount Vernon, New York, by virtue of a mechanic's lien she filed on October 14, 2022" (*Sharon Leslie v. Federal National Mortgage Association*, Index No. 67158/2022 [Westc. Co. Sup. Ct.]) which was dismissed by this Court (Wood, J.) for lack of personal jurisdiction over Fannie Mae and Fannie Mae's motion to discharge and vacate the mechanic's lien was denied for the same reason (Decision and Order at NYSCEF Doc. No. 37).

While the Courts routinely give *pro se* litigants wide latitude, "a litigant appearing *pro se* acquires no greater right than any other litigant" represented by counsel and will be held to the same standards. *Roundtree v. Singh*, 143 AD2d 995 (2d Dept. 1988).

Although Leslie filed an untimely Amended Answer<sup>1</sup> raising personal jurisdiction as a defense, she has failed to rebut the presumption of service. *Deutsche Bank Natl Trust Co. v. O'King*, 148 Ad3d 776, 776 (2d Dept. 2017)("A process server's affidavit of service gives rise to

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<sup>1</sup> As the time to amend as of right had already expired, Leslie's failure to obtain permission from this Court renders the Amended Answer a procedural and legal nullity. *Nikolic v. Federation Employment and Guidance Service, Inc.*, 18 A.D.3d 522, 524 (2d Dept. 2005)( "As the 20-day period had expired..., the plaintiff's service of the amended summons and complaint was a nullity since he served these papers without leave of court or a stipulation of the parties in accordance with CPLR 3025(b)").

a presumption of proper service”). Leslie’s allegation that the process server was impersonating a police officer does not rebut service.

Additionally, the Court must reject Leslie’s affirmation in opposition to Plaintiff’s motion (NYSCEF Doc. No. 42) because it is affirmed by “Defendant Sharon Leslie dba, Anna's House Missions, Inc. and "corporations may only appear by an attorney.” CPLR 321(a); *see e.g. Mail Boxes, Etc. USA. v. Higgins*, 281 A.D.2d 176 (1<sup>st</sup> Dept. 2001) (corporation’s failure to retain counsel justified entry of default of judgment); *Michael Reilly Design, Inc. v. Houraney*, 40 A.D.3d 592 (2d Dept. 2007) (“a corporation ... may only be represented by an attorney and not by one of its members who is not an attorney admitted to practice in the State of New York.”).

Turning to the instant motions, “[p]ursuant to Lien Law §17, a mechanic’s lien expires one year after filing unless an extension is filed with the County Clerk or an action is commenced to foreclose the lien within that time and a notice of pendency is filed in connection therewith” *Christopulos v. Christopulos*, 207 Ad3d 698, 698 (2d Dept. 2022).

Here, Leslie has failed to show that an action was commenced foreclosing the lien or an extension was sought by October 22, 2023; thus, her motion, even if properly brought (CPLR R. 2214) must be denied. Moreover, as the lien expired by operation of law, Fannie Mae’s motion to vacate and discharge the expired Mechanic’s lien must be granted. *Aztec Window & Door Mfg., Inc. v. 71 Vil Rd, LLC*, 60 AD3d 795, 796 (“as the plaintiff failed to ... move to extend the time to do so within the one-year period, the mechanic's lien expired as a matter of law and should have been discharged”)

The Court has considered the parties’ remaining contentions and deems them to lack merit or to be moot in light of the foregoing. Accordingly, it is hereby

ORDERED, that Defendant Sharon Leslie’s motion to extend the Mechanic’s lien (Motion Seq. No. 1) is denied; and it is further

ORDERED, that Plaintiff’s cross-motion for summary judgment and vacatur and cancellation of the Mechanic’s lien (Motion Seq. No. 2) is granted; and it is further

ORDERED, that the Mechanic’s Lien dated October 13, 2022 and filed on October 14, 2022 by Sharon Leslie d/b/a Anna’s House Missions, Inc. (NYSCEF Doc. No. 3) in the amount

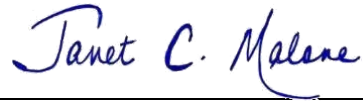
of \$350,000.00 in the Office of Clerk of Westchester County be and hereby is vacated, discharged and canceled of record; and it is further

ORDERED that the Clerk of Westchester County is directed to vacate the aforesaid notice of mechanic's lien filed October 14, 2022 by Sharon Leslie d/b/a Anna's House Missions, Inc. (NYSCEF Doc. No. 3) and to cancel the same from its records; and it is further

ORDERED that Plaintiff shall serve a copy of this Decision and Order with notice of entry within ten (10) days on Defendant and file proof of same via NYSCEF.

The foregoing constitutes the Decision and Order of this Court.

Dated: White Plains, New York  
October 1, 2024



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HON. JANET C. MALONE, J.S.C.