

Curtis Barry Prop. Mgmt LLC v Public Admr. of Queens County
2024 NY Slip Op 35587(U)
April 15, 2024
Supreme Court, Nassau County
Docket Number: Index No. 602429/2023
Judge: Sarika Kapoor
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**SUPREME COURT: STATE OF NEW YORK
COUNTY OF NASSAU**

PRESENT: HON. SARIKA KAPOOR
ACTING JUSTICE OF THE SUPREME COURT

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CURTIS BARRY PROPERTY MGMT LLC (AKA CURTIS
BARRY PROPERTY MANAGEMENT LLC),

TRIAL/IAS PART 34
Index No.: 602429/2023

Plaintiff,

DECISION AND ORDER

- against -

Motion Seq. No.: 002
Motion Submission Date:
03/22/2024

PUBLIC ADMINISTRATOR OF QUEENS COUNTY as
administrator of the estate of DONALD NANSEN, the
unknown heirs, legatees, devisees and/or representatives of
Ida Nansen and the unknown heirs, legatees, devisees and/or
representatives of Donald Nansen and all persons that may
claim an interest in the property referred to in the complaint by,
through or under any of the foregoing (the aforesaid unknown heirs,
legatees, devisees and/or representatives being all such heirs,
legatees, devisees and/or representatives other than those
specifically named as a defendant herein—the identity and
addresses of all the foregoing not being known to plaintiff;
PATRICIA BENVENUTO, NASSAU EDUCATORS FEDERAL
CREDIT UNION,

Defendants.

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NYSCEF docs. 16-24 were read and considered in deciding this motion.

Plaintiff moves for an Order granting it judgment against each of the defendants and
confirming that plaintiff holds fee title to the Property free and clear of any and all claims, interests,
and liens of Defendants. Despite proof of proper service (22 NYCRR 202.5-b[f][2][ii]), the instant
motion remains unopposed.

Background

Plaintiff is the owner of, and has possession of, a property (the “Property”) located in
Nassau County, State of New York, which is identified on the land and tax map of the County of
Nassau in the State of New York, as follows: Town: Hempstead, School District: 13, Section: 37,
Block: 12, Lot(s) No.: 133-134. The Property is a vacant lot. Said premises are also known as and
by street number: Vacant Land located at Motley Street, Valley Stream, NY 11580.

Plaintiff brings this action pursuant to RPAPL Article 15 to quiet title against the Defendants herein in order to confirm that it has fee title to the Property free and clear of the claims, liens, and interests of the Defendants herein.

Briefly, plaintiff acquired the Property by virtue of a Treasurer's Deed. Specifically, on March 3, 2020, the Treasurer of the Village, by virtue of the authority vested in him by section 1464 of the Real Property Tax Law of the State of New York, conveyed to Plaintiff absolute fee title to the Property by executing and delivering to Plaintiff the subject deed. The documents furnished herewith confirm that all conditions precedent to such conveyance were satisfied.

The Property was previously owned by Christ Nansen and his wife Ida Nansen under a deed dated April 12, 1948. Christ Nansen died on or about March 27, 1976, and was survived by his wife Ida Nansen. Upon the death of Christ Nansen, title to the Property vested in Ida Nansen, as surviving spouse. Ida Nansen died intestate on or about June 5, 1986, and thereafter title to the Property passed to Donald Nansen, her only known child and heir, and to any unknown heirs. Donald Nansen died intestate on or about February 15, 2016, and, upon his death, title to the Property passed to the known and unknown heirs of Donald Nansen.

Plaintiff submits that, as a result of the Treasurer's deed, Plaintiff has fee title to the Property free and clear of any and all claims or interests of the heirs of Ida Nansen and Donald Nansen, former owners of the Property, and of the other Defendants named herein.

Additionally, plaintiff submits that the Public Administrator Of Queens County is named as a Defendant herein solely because said Public Administrator served as the administrator of the estate of Donald Nansen. Furthermore, Patricia Benvenuto is named as a Defendant herein because she is believed to be a cousin of the late Donald Nansen and may claim an interest in the Property as an heir of Donald Nansen.

In bringing this action to quiet title, plaintiff submits that any Judgment issued forthwith will not affect a person or persons not in being or ascertained at the commencement of the action, who by any contingency contained in a devise or grant or otherwise, could afterward become entitled to a beneficial estate or interest in the Property involved. Plaintiff submits that every person in being who would have been entitled to such estate or interest if such event had happened immediately before the commencement of the action is named as a party thereto. No personal claim is made against any Defendant other than a Defendant who shall assert a claim adverse to the claim of the Plaintiff set forth in this complaint.

By Decision and Order dated October 31, 2023 this Court granted the plaintiff's unopposed motion (Seq. 001) for an Order allowing service by publication, appointing a Guardian Ad Litem and Military Attorney, enlarging the time for service, and amending the caption, in its entirety. Indeed, in said Decision and Order, this Court, inter alia:

ORDERED, that the summons and complaint in this action be delivered on behalf of said defendants who may be served by publication to Heather D. Crossley of, 755 Wyngate Drive West,

Valley Stream, New York 11580-1445 Fiduciary Number 670565, whose telephone number is (516) 668-2778, who is hereby authorized, empowered and designated to appear herein as Guardian ad Litem and Military Attorney on behalf of said defendants, including, without limitation, any of said defendants who may be an absentee, infant or incompetent, or in military service, and to protect and defend the interests of said defendants in this action upon filing his/her acknowledged consent and qualifying affidavit;

Additionally, in its underlying Decision and Order, this Court determined that the plaintiff has demonstrated its entitlement to a judgment that confirms that it holds fee title to the Property free and clear of any and all claims, liens, and interests of each Defendant to, on or in the Property, including, without limitation, all claims, liens, and interests.

Mot. Seq. 002

In support of its instant motion, counsel for plaintiff annexes, inter alia, the report of Heather D. Crossley, Esq. who avers therein that there are “no legal objections to Plaintiff’s claim that can be presented on behalf of the defendants served by publication” (doc. 19). Plaintiff’s counsel submits, therefore, that in view of the foregoing, that judgment be entered against the defendants that were served by publication as described herein.

Relevant Law And Discussion

As previously noted, each of the defendants is in default.

It is well established that “[a] default admits all factual allegations of the complaint and all reasonable inferences therefrom” (*Lamm v Stevenson*, 276 AD2d 531, 531 [2d Dept 2000]). Thus, the defaulting defendants herein are deemed to admit the allegations of the complaint which, among other things, establish that the Village of Valley Stream properly issued the Treasurer’s Deed to plaintiff, that all conditions precedent were satisfied and that, as a result of the Treasurer’s Deed, plaintiff has title to the Property free and clear of any and all claims, interests and liens of whatever nature or source asserted by any of the defendants.

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Conclusion

Accordingly, it hereby,

ORDERED, that plaintiff's instant motion for judgment against each of the defendants and confirming that it holds fee title to the Property free and clear of any and all claims, interests, and liens of Defendants, is **GRANTED in its entirety**.

Any applications not specifically addressed are herewith **DENIED**.

This shall constitute the Decision and Order of this Court.

Submit Judgment on Notice.

Dated: Mineola, New York
April 15, 2024

ENTER:



HON. SARIKA KAPOOR, A.J.S.C.

ENTERED

Apr 17 2024

NASSAU COUNTY
COUNTY CLERK'S OFFICE