

U.S. Bank N.A. v Crowder

2025 NY Slip Op 31646(U)

April 14, 2025

Supreme Court, Kings County

Docket Number: Index No. 519367/18

Judge: Cenceria P. Edwards

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At an IAS Term, Part FRP-1 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at Civic Center, Brooklyn, New York, on the 14th day of June, 2023.

P R E S E N T:

HON. CENCERIA EDWARDS,

Justice.

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U.S. BANK NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE FOR THE RMAC TRUST, SERIES 2016-CTT,

Plaintiff,

- against -

Index No. 519367/18

SHAQUANA CROWDER A/K/A SHAQUANA L. CROWDER A/K/A SHAQUANA LANIECE CROWDER, AS ADMINISTRATOR FOR AND AS HEIR TO THE ESTATE OF SHARON BUTLER A/K/A SHARON L. BUTLER, JOHNNIE R. CROWDER, JR. A/K/A JOHNNIE CROWDER, JR., AS HEIR TO THE ESTATE OF SHARON BUTLER, AND AS HEIR TO THE ESTATE OF ESTELLE CROWDER, STEVEN BUTLER A/K/A STEVEN A. BUTLER, AS HEIR TO THE ESTATE OF SHARON BUTLER A/K/A SHARON L. BUTLER, PUBLIC ADMINISTRATOR OF KINGS COUNTY AS ADMINISTRATOR TO THE ESTATE OF ESTELLE CROWDER AND ESTELLE CROWDER’S HEIRS-AT-LAW, NEXT-OF-KIN, DISTRIBUTEES, EXECUTORS, ADMINISTRATORS, TRUSTEES, DEVISES, LEGATEES, ASSIGNEES, LIENORS, CREDITORS, AND SUCCESSORS IN INTEREST, AND GENERALLY ALL PERSONS HAVING OR CLAIMING, UNDER, BY OR THROUGH SAID DEFENDANT, WHO MAY BE DECEASED, BY PURCHASE, INHERITANCE, LIEN OR OTHERWISE, ANY RIGHT, TITLE OR INTEREST IN AND TO THE PREMISES DESCRIBED IN THE COMPLAINT HEREIN, TIMOTHY CROWDER AS HEIR TO THE ESTATE OF STELLA JAMES WHO WAS HEIR TO THE ESTATE OF ESTELLE CROWDER, KEVIN CROWDER, AS HEIR TO THE ESTATE OF STELLA JAMES WHO WAS HEIR TO THE ESTATE OF ESTELLE CROWDER, HOWARD CROWDER, AS HEIR TO THE ESTATE OF STELLA JAMES

WHO WAS HEIR TO THE ESTATE OF ESTELLE CROWDER AND STELLA JAMES' HEIRS-AT-LAW, NEXT-OF-KIN, DISTRIBUTEES, EXECUTORS, ADMINISTRATORS, TRUSTEES, DEVISES, LEGATEES, ASSIGNEES, LIENORS, CREDITORS, AND SUCCESSORS IN INTEREST, AND GENERALLY ALL PERSONS HAVING OR CLAIMING, UNDER, BY OR THROUGH SAID DEFENDANT, WHO MAY BE DECEASED, BY PURCHASE, INHERITANCE, LIEN OR OTHERWISE, ANY RIGHT, TITLE OR INTEREST IN AND TO THE PREMISES DESCRIBED IN THE COMPLAINT HEREIN, UNKNOWN HEIRS OF JESSE JAMES AS HEIR TO THE ESTATE OF ESTELLE CROWDER AND HIS HEIRS-AT-LAW, NEXT-OF-KIN, DISTRIBUTEES, EXECUTORS, ADMINISTRATORS, TRUSTEES, DEVISES, LEGATEES, ASSIGNEES, LIENORS, CREDITORS, AND SUCCESSORS IN INTEREST, AND GENERALLY ALL PERSONS HAVING OR CLAIMING, UNDER, BY OR THROUGH SAID DEFENDANT, WHO MAY BE DECEASED, BY PURCHASE, INHERITANCE, LIEN OR OTHERWISE, ANY RIGHT, TITLE OR INTEREST IN AND TO THE PREMISES DESCRIBED IN THE COMPLAINT HEREIN, 2005 RESIDENTIAL TRUST 3-1, CRIMINAL COURT OF THE CITY OF NEW YORK, MIDLAND CREDIT MANAGEMENT INCE MIDLAND FUNDING NCC-2 CORP., NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, NEW YORK CITY PARKING VIOLATIONS BUREAU, NEW YORK CITY TRANSIT ADJUDICATION BUREAU, COMMISSIONER OF JURORS, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, UNITED STATES OF AMERICA OBO INTERNAL REVENUE SERVICE, JANE DOE (REFUSED NAME),

Defendants.

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The following e-filed papers read herein:

NYSCEF Doc Nos.

Notice of Motion/Order to Show Cause/Cross
Motion and Affidavits (Affirmations) _____
Opposing Affidavits (Affirmations) _____
Reply Affidavits (Affirmations) _____

51-72
81-84
85

Upon the foregoing papers in this action to foreclose a mortgage encumbering the residential property at 495 Elton Street in Brooklyn (Block 4050, Lot 14) (Property), non-party 495 Elton LLC (Elton LLC), the purported owner of the Property, moves (in motion sequence [mot. seq.] one) for an order: (1) granting it leave to intervene in this action, pursuant to CPLR 1012 and 1013, and (2) substituting it as a party defendant, pursuant to CPLR 1018 and 1021, in place and instead of defendant Shaquana Crowder, in her capacity as the administratrix of Sharon Butler's estate, "as Elton LLC has also acquired the interest of Sharon Butler's estate in the Property . . ." (NYSCEF Doc No. 51).

Background

On September 26, 2018, plaintiff U.S. Bank National Association, not in its individual capacity but solely as Trustee for the RMAC Trust, Series 2016-CTT (US Bank) commenced this action by filing a summons, an unverified complaint and a notice of pendency against the Property (NYSCEF Doc Nos. 1-2).

On September 12, 2019, after leave was granted, US Bank filed a supplemental summons and an amended complaint (NYSCEF Doc Nos. 43-44). The amended complaint alleges that on or about June 26, 2006, Sharon Butler executed and delivered a \$400,000.000 promissory note in favor of Countywide Home Loans (Countrywide), which was secured by a mortgage encumbering the Property (NYSCEF Doc No. 44 at ¶¶ 2-3). The complaint alleges that "Sharon Butler failed to comply with the terms, covenants and conditions of said note and mortgage by failing and omitting to pay, to the plaintiff, payments due on October 01, 2009 . . ." and thereafter (*id.* at ¶ 9).

The amended complaint further alleges that “[o]n July 30, 2013, Sharon Butler passed away” and “Shaquana Crowder was appointed as Administrator to the Estate of Sharon Butler pursuant to an Order dated August 25, 2017 issued by the Surrogate’s Court of the County of Kings” (*id.* at ¶ 11).

The amended complaint asserts the following six causes of action: (1) a judgment of foreclosure against the Property; (2) an award of reasonable attorneys’ fees and costs; (3) a judgment, pursuant to RPAPL Article 15, declaring that the interest of the Estate of Estelle Crowder in the Property,¹ including the interests of Estelle Crowder’s heirs, are extinguished and that US Bank has a valid first lien on the Property; (4) a judgment granting US Bank an equitable lien and/or mortgage or a constructive trust against the interest of Estelle Crowder; (5) a judgment declaring that US Bank has an equitable lien or mortgage encumbering the Property in the amount of the balance due on the mortgage plus interest and costs; and (6) a judgment, pursuant to RPAPL Article 15, declaring that US Bank has a valid first lien on the Property that is superior to all interests derived after the filing of the notice of pendency.

¹ The amended complaint alleges that prior to the issuance of the subject mortgage, “[o]n or about July 20, 1999, a prior deed was executed which vested title of the above mentioned premises to Sharon Butler and Estelle Crowder, as tenants in common” and “[o]n or about November 6, 2003, a deed was executed by Sharon Butler as surviving tenant by the entirety of Estelle Crowder, who passed away on December 2, 2000” (*id.* at ¶¶ 28-29). The complaint further alleges that “[t]here is no deed on record that transferred the property interest of Estelle Crowder to Sharon Butler” and thus, “the interest of Estelle Crowder remains a cloud upon the title to the Property that will prevent the plaintiff from enforcing the lien of its mortgage against the Property” (*id.* at ¶ 33).

Elton LLC's Motion To Intervene

Non-party Elton LLC moves for leave to intervene in this action and to substitute it in place of defendant Shaquana Crowder, in her capacity as the administratrix of Sharon Butler's estate because "Elton LLC has also acquired the interest of Sharon Butler's estate in the Premises, to the effect that [it] is the sole owner of a one hundred (100%) percent interest in the Premises" (NYSCEF Doc No. 51).

Elton LLC submits an attorney affirmation asserting that:

"Elton LLC acquired a fifty (50%) percent interest in the Premises in seven (7) deeds from the nine (9) heirs-at-law Estelle Crowder, deceased ('Crowder'), one of the two (2) deceased former owners of the Premises (Exhibits '1A' through 'Lg' hereto). Elton LLC acquired an additional thirty three and thirty three one hundredths (33.33%) of the remaining fifty (50%) percent ownership interest in the Premises from two (2) of the three (3) heirs-at-law of Sharon Butler ('Butler'), the other deceased former owner of the Premises (Exhibit '2' hereto), and the remainder of Butler's fifty (50%) percent interest from Shaquana Crowder in her capacity as the administratrix of Butler's Estate (Exhibit '3' hereto)" (NYSCEF Doc No. 52 at ¶ 1).

Based on the foregoing deeds issued by the heirs of Estelle Crowder and Sharon Butler, Elton LLC's counsel asserts that Elton LLC owns 100% of the Property (*id.* at ¶ 2). Elton LLC's counsel argues that intervention is warranted, as a matter of law, because Elton LLC has a real and substantial interest in the outcome of the proceedings (*id.* at ¶ 12).

US Bank's Opposition

US Bank, in opposition, submits an attorney affirmation asserting that "Plaintiff's opposition to this Motion is solely that any relief that may be granted by this Court is

limited to the relief agreed to by Plaintiff and Intervenor in the stipulation between the parties dated October 18, 2022 (the ‘Stipulation’))” (NYSCEF Doc No. 81 at ¶ 5). Plaintiff’s counsel submits a copy of the parties’ Stipulation, in which Elton LLC and US Bank parties agreed that: (1) Elton LLC could intervene in this action and file the answer proposed as NYSCEF Doc No. 72; (2) the caption is amended to reflect the intervention; and (3) “Plaintiff retains the right to object to any and all claims and/or defenses raised by [Elton LLC]” (*see* NYSCEF Doc No. 84 [Stipulation]).

Discussion

CPLR 1012 (a) (3) provides that a party may intervene as of right “when the action involves the disposition or distribution of, or the title or a claim for damages for injury to, property and the person may be affected adversely.” CPLR 1013 provides that a court has discretion to permit a person to intervene “when the person’s claim or defense and the main action have a common question of law or fact” and, in exercising its discretion, “the court shall consider whether the intervention will unduly delay the determination of the action or prejudice the substantial rights of any party.”

Intervention in a foreclosure action is appropriate where the proposed intervenor establishes it may have an ownership interest in the property being foreclosed (*JP Morgan Chase Bank, Nat. Ass’n v Kalpakis*, 91 AD3d 722, 723 [2d Dept 2012] [holding that “(t)he Supreme Court properly granted that branch of the movants’ motion which was pursuant to CPLR 1012 (a) (3) for leave to intervene in the action, as the movants established that

they may have an ownership interest in the property that is the subject of the foreclosure proceeding”]).

Here, intervention is warranted based on Elton’s alleged ownership interest in the Property and the parties’ Stipulation. Accordingly, it is

ORDERED that Elton LLC’s motion (mot. seq. one) is granted pursuant to the parties’ Stipulation (NYSCEF Doc No. 84); and it is further

ORDERED that the caption is amended in accordance with the parties’ Stipulation to read:

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U.S. BANK NATIONAL ASSOCIATION, NOT IN ITS
INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE
FOR THE RMAC TRUST, SERIES 2016-CTT,

Plaintiff,

- against -

495 ELTON LLC, JOHNNIE R. CROWDER, JR. A/K/A
JOHNNIE CROWDER, JR., AS HEIR TO THE ESTATE
OF SHARON BUTLER, AND AS HEIR TO THE ESTATE
OF ESTELLE CROWDER, STEVEN BUTLER A/K/A
STEVEN A. BUTLER, AS HEIR TO THE ESTATE OF
SHARON BUTLER A/K/A SHARON L. BUTLER,
PUBLIC ADMINISTRATOR OF KINGS COUNTY AS
ADMINISTRATOR TO THE ESTATE OF ESTELLE
CROWDER AND ESTELLE CROWDER’S HEIRS-AT-
LAW, NEXT-OF-KIN, DISTRIBUTEES, EXECUTORS,
ADMINISTRATORS, TRUSTEES, DEVISES,
LEGATEES, ASSIGNEES, LIENORS, CREDITORS,
AND SUCCESSORS IN INTEREST, AND GENERALLY
ALL PERSONS HAVING OR CLAIMING, UNDER, BY
OR THROUGH SAID DEFENDANT, WHO MAY BE
DECEASED, BY PURCHASE, INHERITANCE, LIEN
OR OTHERWISE, ANY RIGHT, TITLE OR INTEREST
IN AND TO THE PREMISES DESCRIBED IN THE

COMPLAINT HEREIN, TIMOTHY CROWDER AS HEIR TO THE ESTATE OF STELLA JAMES WHO WAS HEIR TO THE ESTATE OF ESTELLE CROWDER, KEVIN CROWDER, AS HEIR TO THE ESTATE OF STELLA JAMES WHO WAS HEIR TO THE ESTATE OF ESTELLE CROWDER, HOWARD CROWDER, AS HEIR TO THE ESTATE OF STELLA JAMES WHO WAS HEIR TO THE ESTATE OF ESTELLE CROWDER AND STELLA JAMES' HEIRS-AT-LAW, NEXT-OF-KIN, DISTRIBUTEES, EXECUTORS, ADMINISTRATORS, TRUSTEES, DEVISES, LEGATEES, ASSIGNEES, LIENORS, CREDITORS, AND SUCCESSORS IN INTEREST, AND GENERALLY ALL PERSONS HAVING OR CLAIMING, UNDER, BY OR THROUGH SAID DEFENDANT, WHO MAY BE DECEASED, BY PURCHASE, INHERITANCE, LIEN OR OTHERWISE, ANY RIGHT, TITLE OR INTEREST IN AND TO THE PREMISES DESCRIBED IN THE COMPLAINT HEREIN, UNKNOWN HEIRS OF JESSE JAMES AS HEIR TO THE ESTATE OF ESTELLE CROWDER AND HIS HEIRS-AT-LAW, NEXT-OF-KIN, DISTRIBUTEES, EXECUTORS, ADMINISTRATORS, TRUSTEES, DEVISES, LEGATEES, ASSIGNEES, LIENORS, CREDITORS, AND SUCCESSORS IN INTEREST, AND GENERALLY ALL PERSONS HAVING OR CLAIMING, UNDER, BY OR THROUGH SAID DEFENDANT, WHO MAY BE DECEASED, BY PURCHASE, INHERITANCE, LIEN OR OTHERWISE, ANY RIGHT, TITLE OR INTEREST IN AND TO THE PREMISES DESCRIBED IN THE COMPLAINT HEREIN, 2005 RESIDENTIAL TRUST 3-1, CRIMINAL COURT OF THE CITY OF NEW YORK, MIDLAND CREDIT MANAGEMENT INCE MIDLAND FUNDING NCC-2 CORP., NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, NEW YORK CITY PARKING VIOLATIONS BUREAU, NEW YORK CITY TRANSIT ADJUDICATION BUREAU, COMMISSIONER OF JURORS, NEW YORK STATE

DEPARTMENT OF TAXATION AND FINANCE, UNITED
STATES OF AMERICA OBO INTERNAL REVENUE
SERVICE, JANE DOE (REFUSED NAME),

Defendants.

-----X.

This constitutes the decision and order of the court.

E N T E R,

April 14, 2025



Hon. Cenceria P. Edwards, CPA J. S. C.