

Park Royal I LLC v Wells Fargo Bank, N.A.

2025 NY Slip Op 31935(U)

May 15, 2025

Supreme Court, New York County

Docket Number: Index No. 655404/2021

Judge: Joel M. Cohen

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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PARK ROYAL I LLC, PARK ROYAL II LLC,

Plaintiffs,

- v -

WELLS FARGO BANK, N.A., LAW DEBENTURE TRUST
 COMPANY OF NEW YORK, AS TRUSTEE (AND ANY
 PREDECESSORS OR SUCCESSORS THERETO), TMI
 TRUST COMPANY, AS TRUSTEE (AND ANY
 PREDECESSORS OR SUCCESSORS THERETO),
 DELAWARE TRUST COMPANY, AS TRUSTEE,

Defendants.

-----X

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 006) 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 233, 234, 235, 242

were read on this motion to

DISMISS

This is a breach of contract case involving 34 residential mortgage-backed securities (RMBS) trusts. Law Debenture Holdings (“LDH”)¹ moves to dismiss claims brought by Plaintiffs Park Royal I LLC and Park Royal II LLC against Defendant Law Debenture Trust Company of New York (“LDT”) pursuant to CPLR 3211(a)(8), asserting that this Court lacks personal jurisdiction because LDT was judicially dissolved under the Banking Law in 2021 prior to service of process. For the reasons set forth below, LDH’s motion is **granted** and the claims asserted against LDT are dismissed with prejudice.

¹ LDH was the sole shareholder of LDT at the time LDT was dissolved (NYSCEF 197 at 2). The Court permitted LDH to participate in this action for the sole purpose of making this motion to dismiss the claims against LDT, which has been judicially dissolved (NYSCEF 158).

BACKGROUND

I. Factual Background

Plaintiffs are investors in 34 RMBS trusts containing approximately 179,000 mortgage loans with a combined principal balance of about \$40 billion (NYSCEF 146 [“Compl.”] ¶ 36). Plaintiffs allege that the trusts sustained approximately \$12 billion in damages due to failures by the trustees—initially Defendant Wells Fargo and subsequently LDT—in fulfilling their contractual duties under the trusts’ governing agreements (*id.* ¶ 38).

The RMBS securitization process involves the transfer of mortgage loans from lenders (also known as “originators”) to sponsors, who receive mortgage documents and facilitate the securitization arrangements, and then to trustees, who are tasked with administering the trusts, enforcing remedies for breaches of representations and warranties (“R&Ws”), and distributing payments to certificateholders (*id.* ¶ 55-59).

For the 34 trusts in this action, Defendant Wells Fargo was the original trustee (*id.*) However, beginning in 2012, the Minnesota District Court for the Fourth Judicial District authorized Wells Fargo to appoint LDT—a limited purpose trust company organized under New York’s Banking Law—as a separate trustee for at least some of the trusts in this action (*id.* ¶ 23).

As described in greater detail below, LDT subsequently sold its trust business assets to two successors and was judicially dissolved (*id.* at 33-34) prior to being sued in this action.

II. Procedural Background

Plaintiffs initially commenced multiple actions against Wells Fargo between 2019 and 2021 seeking to recover losses allegedly caused by Wells Fargo’s breach of the governing agreements in 27 trusts (NYSCEF 197 at 5; *see also* NYSCEF 2 and 16). Plaintiffs then consolidated the three actions in their First Consolidated Complaint (NYSCEF 16).

On May 15, 2023, Plaintiffs sued LDT and added it as a defendant in this action in addition to three other newly filed cases that collectively involve 34 trusts (NYSCEF 197 at 6). The four cases were consolidated into this action on June 11, 2024 (NYSCEF 171). On February 28, 2023, this Court dismissed the claims against Wells Fargo on the ten trusts of which LDT became a separate trustee pursuant to the order by the Minnesota District Court for the Fourth Judicial District (*see* NYSCEF 124). LDH later moved to dismiss the claims against LDT.

DISCUSSION

On a motion to dismiss under CPLR 3211, the Court must accept all factual allegations as true, afford the pleadings a liberal construction, and accord plaintiff the benefit of every possible favorable inference (*Leon v. Martinez*, 84 N.Y.2d 83, 87-88 [1994]). “[H]owever, ‘allegations consisting of bare legal conclusions as well as factual claims flatly contradicted by documentary evidence are not entitled to any such consideration’” (*Myers v. Schneiderman*, 30 NY3d 1, 11 [2017] [citations omitted]). As is often stated, “the court must ‘determine only whether the facts as alleged fit within any cognizable legal theory’” (*Richards v. Sec. Resources*, 187 A.D.3d 452 [1st Dept. 2020], quoting *Leon*, 84 N.Y.2d at 87-88).

Plaintiffs’ claims against LDT are dismissed because the Court lacks personal jurisdiction over LDT. “Under CPLR 3211(a)(8), a party may move to dismiss on the ground that the court lacks personal jurisdiction over defendants” (*Talipot ESG Investments LLC v Bulltick Fin. Advisory Services LLC*, 85 Misc 3d 1234(A) [Sup Ct 2025]). Two constitutionally required components must be established for the court to exercise personal jurisdiction: “[o]ne component involves service of process, which implicates due process requirements of notice and opportunity to be heard” and “[t]he other component ‘involves the power, or reach, of a court over a party, so as to enforce judicial decrees’” (*Emirates Islamic Bank PJSC v NeoPharma LLC*, 84 Misc 3d

1217(A), 219 NYS3d 913 [Sup Ct 2024]). Here, Plaintiffs' claims against LDT fail on the first prong because the record shows that Plaintiffs commenced the lawsuit against LDT (and attempted to effectuate service of process) after LDT was dissolved.

Since LDT was organized and subsequently dissolved pursuant to the Banking Law, the Court refers to that statute to determine LDT's capacity as a dissolved banking entity to be sued. "Business corporations [...] are creatures of statute and, as such, require statutory authority to sue and be sued" (*Community Bd. 7 of Borough of Manhattan v. Schaffer*, 84 NY2d 148, 155, 639 NE2d 1, 4 [1994]). The Banking Law sets forth a formal and highly regulated process by which a banking entity may dissolve, which is overseen by the New York State Department of Financial Services ("DFS") and culminates with a judicial order of dissolution (Banking Law § 605[7]). Once that judicial order is filed with DFS, the Banking Law provides that "the corporation shall cease to exist" (*id.*).

Here, the statutory dissolution process was followed. In 2016, LDT commenced a voluntary dissolution process pursuant to New York State's Banking Law (NYSCEF 180). As required by the Banking Law, LDT notified the Department of Financial Services that it planned to wind down its business (NYSCEF 183). LDT then initiated a dissolution proceeding in Supreme Court, New York County on January 16, 2020 (NYSCEF 184).

In its petition, LDT stated that it had "(1) sold "substantially all of its corporate trust business" to Delaware Trust Company ("DTC") and (2) entered into a definitive agreement with TMI Trust Company ("TMI")² "for the sale of certain remaining assets of the company's

² Plaintiffs named DTC as defendant in its First Amended Complaint filed on February 2, 2024. However, Plaintiffs discontinued the claims against DTC without prejudice citing evidence that DTC provided "indicating that DTC was not a successor to any duties Law Debenture may have

corporate trust business (*id.*) On April 10, 2020, the court granted LDT's Closing Order Petition and ordered that LDT "shall cease to do business and shall wind up its affairs and pay its creditors and depositors" (NYSCEF 189). On January 19, 2021, the court entered an order stating that "the Company is dissolved and its corporate existence terminated" (NYSCEF 192). This all took place before Plaintiffs named LDT as a defendant in this lawsuit and attempted service of process.

Nevertheless, Plaintiffs argue that LDT has the capacity to be sued, drawing an analogy to business corporations that can be sued under the Business Corporations Law after they dissolve. But that argument is unavailing. Unlike the Business Corporation Law ("BCL"), which contains provisions expressly allowing limited post-dissolution litigation during a wind-down period (*see* BCL § 1006[a]), the Banking Law contains no such provision. Indeed, BCL § 103 explicitly states that its provisions do not apply to banking entities "except to the extent, if any, provided under such law." As such, any statutory authority for post-dissolution litigation against a banking entity must be found within the Banking Law itself, which contains no such authority.

Plaintiffs' reliance on *Matter of Ford v. Pulmosan Safety Equip. Corp.* (52 AD3d 710, 710 [2d Dept 2008]) is misplaced. *Ford* involved claims brought pursuant to BCL §108 (*id.*). That section expressly allows for a petition for court intervention at "any time after the filing of a certificate of dissolution" and "in all matter in connection with the dissolution or the winding up of the affairs of the corporation" (BCL §108[a]). Again, the Banking Law contains no such provision.

had with respect to the trusts at issue" in this action (NYSCEF 169). Similarly, Plaintiffs discontinued the claims against TMI without prejudice citing evidence that TMI provided "indicating that TMI was not a successor to any duties Law Debenture may have had with respect to the trusts at issue" in this action (NYSCEF 178).

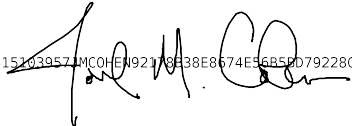
The Court has considered the parties’ other arguments and finds them unavailing. As the United States Supreme Court observed more than 100 years ago: “It is well settled that at common law...a corporation which has been dissolved is as if it did not exist... [C]orporations exist for specific purposes, and only by legislative act, so that if the life of the corporation is to continue even only for litigating purposes it is necessary that there should be some statutory authority for the prolongation” (*Oklahoma Nat. Gas Co. v State of Oklahoma*, 273 US 257, 259 [1927]). Here, no such statutory authority exists, and therefore Plaintiff cannot maintain suit against a dissolved Banking Law entity such as LDT.

Accordingly, it is

ORDERED that LDH’s motion to dismiss is **GRANTED** and the claims asserted against Law Debenture Trust Company of New York in the Complaint are dismissed with prejudice.

This constitutes the Decision and Order of the Court.

5/15/2025
DATE

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 JOEL M. COHEN, J.S.C.

CHECK ONE:

CASE DISPOSED
 GRANTED DENIED
 SETTLE ORDER
 INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
 GRANTED IN PART
 SUBMIT ORDER
 FIDUCIARY APPOINTMENT

OTHER
 REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: