

601 W. 180 St. NYC LLC v Rojas

2025 NY Slip Op 34292(U)

November 8, 2025

Supreme Court, New York County

Docket Number: Index No. 155572/2025

Judge: Lynn R. Kotler

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LYNN R. KOTLER PART 08

Justice

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601 WEST 180 ST. NYC LLC,

Plaintiff,

- v -

AURELIO ROJAS, ARIEL ROJAS, AWILDA DELEON

Defendant.

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INDEX NO. 155572/2025

MOTION DATE 07/11/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40

were read on this motion to/for

DISMISS

Upon the foregoing documents, this motion is decided as follows. Plaintiff 601 WEST 180 ST. NYC LLC (“601 West”) is the owner and landlord of a building located at 601 West 180th Street, New York, New York 10033 (the “Building”). Defendants AURELIO ROJAS, ARIEL ROJAS, AWILDA DELEON (collectively, the “Tenants”) reside in the Building. Defendant Aurelio Rojas (“Rojas”) now moves to dismiss the complaint. Plaintiff 601 West’s opposition, filed two weeks late, will not be considered and therefore, the motion will be considered on default. The court’s decision is as follows.

Procedural History

In 2015, 601 West commenced a nonpayment proceeding in New York County Housing Court under Index # LT-066849-16/NY (“Housing Court Proceeding”) alleging that the Tenants’ apartment is exempt from rent control and rent stabilization.

While the housing court proceeding was ongoing, in November 2017, 601 West filed a Petition for Administrative Review (PAR) contending that the apartment was erroneously registered as rent stabilized rather than temporarily exempt for the 2007 registration year.

On May 3, 2019, Honorable Judge Clifton A. Nembhard found that 601 West had impermissibly deregulated the apartment, dismissed the petition finding that that the apartment was subject to rent stabilization in 2008, and set the matter down for a hearing on defendants' counterclaim for damages. In January 2020, 601 West moved to renew the Housing Court's decision. To date, the motion has not yet been decided.

On September 19, 2019, 601 West filed an Article 78 seeking an order to amend a 2007 apartment registration. This Court dismissed the petition in a decision dated April 23, 2020.

Five years later, on April 29, 2025, plaintiff filed the instant action. In its complaint, 601 West seeks an order declaring the apartment as deregulated, an injunction compelling defendants to accept, execute, and return the renewal lease to plaintiff or to vacate and surrender its possessory rights to the apartment, granting an injunction ejecting the defendants from the apartment if they do not accept, execute and return the renewal lease, and awarding a money judgment to 601 West for unpaid rent.

Discussion

Pursuant to CPLR 3211 (a) (5), a cause of action may be dismissed for collateral estoppel. Collateral estoppel "precludes a party from relitigating 'an issue which has previously been decided against [them] in a proceeding in which [they] had a fair opportunity to fully litigate the point'" (*Matter of Dunn*, 24 NY3d 699, 704 [2015] quoting *Kaufman v Eli Lilly and Co.*, 65 NY2d 449, 455 [1985]).

The doctrine of collateral estoppel "precludes a party from relitigating in a subsequent action or proceeding an issue clearly raised in a prior action or proceeding and decided against that party or those in privity, whether or not the tribunals or causes of action are the same." *Ryan v NY Tel. Co.*, 62 NY2d 494 (1984)

Issues decided as part of litigated claims in summary proceedings are given estoppel effect. *See Conason v Megan Holding, LLC*, 25 NY3d 1 (finding the housing court's determination of the base date for the purposes of a rent overcharge claim was entitled to estoppel effect). This includes a bar on declaratory relief that contradicts findings in civil court. *Glebow Realty Assoc. v Dietrich*, 227 AD3d 610 [1st Dept 2024].

In order to apply the doctrine of collateral estopped, the following conditions must be met:

(1) the issues in both proceedings are identical, (2) the issue in the prior proceeding was actually litigated and decided, (3) there was a full and fair opportunity to litigate in the prior proceeding, and (4) the issue previously litigated was necessary to support a valid and final judgment on the merits (*Conason v Megan Holding, LLC*, 25 NY3d 1, 17 [2015] quoting *Alamo v McDaniel*, 44 AD3d 149, 153 [1st Dept 2007]).

The court agrees with defendant that the issues in the instant proceeding and those previously decided in the Housing Court Proceeding are identical, that plaintiff had a full and fair opportunity to litigate these same issues and therefore plaintiff should be estopped from relitigating these issues in the instant case.

601 West's arguments that they have since found additional evidence, the closing of the court for a period of time due to the pandemic, Judge Nembhard transferring from New York County to Queens County, and they have been unable to have their arguments heard are unavailing and rejected.

Conclusion

Accordingly, it is hereby

ORDERED that defendant's motion to dismiss is granted and plaintiff's complaint is dismissed as to Defendant Aurielo Rojas only and the Clerk is directed to enter judgment accordingly.

Any requested relief not expressly addressed herein has nonetheless been considered and is hereby denied and this constitutes the decision and order of the court.

11/08/2025

DATE

LYNN R. KOTLER, 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