

Rodas v UOB Realty (USA) LP

2025 NY Slip Op 34361(U)

November 14, 2025

Supreme Court, New York County

Docket Number: Index No. 154784/2024

Judge: Mary V. Rosado

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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. MARY V. ROSADO PART 33M

Justice

-----X

KEYTER ROGER GUAMAN RODAS,
Plaintiff,

- v -

UOB REALTY (USA) LIMITED PARTNERSHIP, SAVCON
CONSTRUCTION, LLC,

Defendant.

-----X

SAVCON CONSTRUCTION, LLC
Plaintiff,

-against-

SOLUTION MECHANICAL CONTRACTING, LLC,

Defendant.

-----X

INDEX NO. 154784/2024

MOTION DATE 06/24/2025

MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 595214/2025

The following e-filed documents, listed by NYSCEF document number (Motion 002) 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 57, 58, 60, 61, 62, 63, 64, 65, 66

were read on this motion to/for VACATE - DECISION/ORDER/JUDGMENT/AWARD.

Upon the foregoing documents, and after a final submission date of September 30, 2025, Defendant UOB Realty (USA) Limited Partnership’s (“UOB Realty”) motion to vacate the default judgment entered against it on June 23, 2025 is granted.

UOB Realty was served via the Secretary of State on June 4, 2024 (NYSCEF Doc. 5). A subsequent notice of default was sent via certified mail to UOB Realty’s address registered with the Secretary of State on July 8, 2024 (NYSCEF Doc. 21). On March 6, 2025, UOB Realty was allegedly served with a notice of motion for default judgment via certified mail, return receipt requested, and regular mail, at UOB Realty’s address registered with the Secretary of State

(NYSCEF Doc. 23). On June 23, 2025, this Court granted Plaintiff's motion for default judgment against UOB Realty based on UOB Realty's failure to appear or otherwise respond to the motion (NYSCEF Doc. 28).

One day later, on June 24, 2025, UOB Realty filed the instant motion to vacate its default (NYSCEF Doc. 30). In support of its motion UOB Realty's counsel submitted an affirmation stating that prior to entry of default, on June 17, 18, 20, and 23, he attempted to contact Plaintiff's counsel via phone call and e-mail to stipulate to an extension of time for UOB to file its answer, but Plaintiff's counsel never responded (NYSCEF Doc. 46). Nopporn (Paul) Utairujimalkool, an officer of UOB Realty, submitted an affidavit stating he did not receive notice of the lawsuit until June 3, 2025, at which time he promptly contacted UOB Realty's insurer and when its insurer declined to provide coverage or a defense, he promptly sought out counsel to defend UOB Realty (NYSCEF Doc. 47). Mr. Utairujimalkool further stated UOB Realty failed to update its address with the Secretary of State which was why it never received notice of the lawsuit. In opposition, Plaintiff argues that the failure to keep an updated address with the Secretary of State does not constitute a reasonable excuse to vacate a default judgment, Plaintiff also argues that UOB Realty has failed to proffer a meritorious defense to this action.

To vacate a default judgment, a movant must show a reasonable excuse for the default and the existence of a meritorious defense (*Terrapin Industries, LLC v Bank of New York*, 137 AD3d 569, 570 [1st Dept 2016]). In assessing whether to vacate a default, the Court is mindful of New York's public policy in resolving cases on the merits (*Yea Soon Chung v Mid Queens LP*, 139 AD3d 490 [1st Dept 2016]). The Court also assesses whether Plaintiff can demonstrate prejudice arising from vacatur of the default (*Genao v Salcedo Maintenance Corp.*, 168 AD3d 528, 529 [1st Dept 2019]).

Plaintiff failed to establish any demonstrable prejudice, as the preliminary conference was held in May of 2025, depositions do not appear to have yet taken place, and Plaintiff's attorneys represent they were attempting to negotiate a resolution to this motion which would allow UOB Realty to vacate its default on consent (NYSCEF Doc. 62). Moreover, while the Court does not find UOB Realty's excuse for its default particularly compelling, in light of the evidence that Defendant promptly contacted its insurer and retained counsel once it learned of the action, and tried to negotiate an extension of time to answer prior to entry of default judgment, the Court finds there is a sufficient basis to vacate its default judgment.

Finally, the affidavit submitted by Mr. Utairujimalkool sufficiently establishes a meritorious defense. The affidavit does not have to prove its defense conclusively but must merely set forth facts sufficient to make a prima facie showing of a meritorious defense (*see, e.g. Martinez v Urban Renaissance Collaboration Limited Partnership*, 277 AD3d 475, 476-77 [1st Dept 2024]). Here, Mr. Utairujimalkool set forth sufficient facts to establish a defense to Plaintiff's Labor Law § 200 and common law negligence claims, namely that UOB Realty did not exercise any control or supervision over the construction site. Moreover, Mr. Utairujimalkool set forth sufficient facts to allege that UOB Realty is entitled to indemnification from other parties should Plaintiff succeed on Labor Law §§ 240(1) and 241(6) claims. Given the minimal burden of establishing a meritorious defense on a motion to vacate a default judgment, UOB Realty's motion is granted.

Accordingly, it is hereby,

ORDERED that Defendant UOB Realty's motion to vacate the default judgment entered against it on June 23, 2025 is granted, and the Answer filed by UOB Realty on June 24, 2025 (NYSCEF Doc. 29) shall be deemed timely served *nunc pro tunc* upon service of this Decision and Order, with notice of entry, on all parties; and it is further

ORDERED that counsel for UOB Realty shall serve a copy of this order with notice of entry on the Clerk of the General Clerk’s Office; and it is further;

ORDERED that such service upon the Clerk of the General Clerk’s Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website); and it is further;

ORDERED that counsel shall meet and confer immediately and submit a proposed compliance conference order to the Court via e-mail to SFC-Part33-Clerk@nycourts.gov, but in no event shall the proposed compliance conference order be submitted any later than December 3, 2025; and it is further

ORDERED that within ten days of entry, counsel for UOB Realty shall serve a copy of this Decision and Order, with notice of entry, on all parties via NYSCEF.

This constitutes the Decision and Order of the Court.

<u>11/14/2025</u> DATE					<u>Mary V Rosado JSC</u> HON. MARY V. ROSADO, J.S.C.
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED		<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	<input type="checkbox"/>	GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/>	OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/>	REFERENCE