

Morales v Rambles Real Estate, LLC

2025 NY Slip Op 34373(U)

November 17, 2025

Supreme Court, New York County

Docket Number: Index No. 157401/2022

Judge: Arthur F. Engoron

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARTHUR F. ENGORON PART 37

Justice

OMAR MORALES, Plaintiff, - v - RAMBLES REAL ESTATE, LLC, Defendant. INDEX NO. 157401/2022 MOTION DATE 04/28/2025 MOTION SEQ. NO. 001 002 DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 39, 40, 42, 44, 45, were read on this motion for PARTIAL SUMMARY JUDGMENT

The following e-filed documents, listed by NYSCEF document number (Motion 002) 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 43, were read on this motion for PARTIAL SUMMARY JUDGMENT

Upon the foregoing documents, and for the reasons stated herein below and at oral argument held virtually on November 13, 2025, defendant's motion for summary judgment is granted in part and denied in part, and plaintiff's motion for summary judgment is granted.

Background

Defendant, Rambles Real Estate, LLC, is the owner of the subject building, located at 625 Greenwich Street, New York, NY (the "Building"). NYSCEF Doc. No. 1. Prior to June 6, 2022, defendant hired non-party NY Painting Plus, Inc. ("NY Painting") to paint certain rooms in the Building. NYSCEF Doc. No. 31.

The instant action arises from an alleged June 6, 2022, accident in which plaintiff, Omar Morales, a construction worker that NY Painting employed, alleges he was injured while working at the Building, when using a ladder and subsequently falling from a height. NYSCEF Doc. No. 1. Plaintiff alleges that he "was performing painting work at an apartment located at the top two floors" of the Building "when the ladder he was standing on slid and he fell down about 12-14 feet, seriously injuring his left ankle, lower back, and his left knee." NYSCEF Doc. No. 26.

On August 30, 2022, plaintiff commenced the instant action against defendant, asserting five causes of action, which allege that: (a) plaintiff's fall and injury were the result of defendant's negligence; (b) defendant violated Labor Law § 200; (c) defendant violated Labor Law §§ 240 (1) and 240 (2); (d) defendant violated Labor Law § 241(6); and (e) defendant violated Rule 23 of the Industrial Code of the State of New York. Id.

On September 28, 2022, plaintiff filed a verified answer, with a general denial and nineteen affirmative defenses. NYSCEF Doc. No. 4.

Motion 1

On April 15, 2025, defendant moved, pursuant to CPLR 3212, for partial summary judgment and dismissal with prejudice of the claims in plaintiff's complaint set forth under the first cause of action for negligence, the second cause of action, pursuant to Labor Law § 200, the third cause of action, pursuant to Labor Law § 240(2), and the fourth and fifth causes of action, pursuant to Labor Law § 241(6) for alleged violations of Rule 23 of the Industrial Code. NYSCEF Doc. No. 14.

In support of the motion, defendant contends, inter alia, that it is entitled to partial summary judgment because there is no evidence that it "controlled the manner in which defendant worked." NYSCEF Doc. No. 15.

Plaintiff does not oppose defendant's motion for the following causes of action: the first cause of action, for negligence, the second cause of action, for an alleged violation of Labor Law § 200, and the part of the third cause of action alleging a violation of Labor Law § 240(2).

Motion 2

On April 16, 2025, pursuant to CPLR 3212, plaintiff filed a cross-motion for partial summary judgment on the issue of liability, under Labor Law §§ 240(1) and 241(6), the latter predicated on violations of Industrial Code 23-1.16(b) and 23- 1.21(b)(4)(iv). NYSCEF Doc. No. 25.

In support of its cross-motion and in partial opposition to defendant's motion, plaintiff contends that "[t]he ladder that he was given had worn feet and was defective and as such the defendant must be held responsible for plaintiff's injuries. Furthermore, no-one was holding the ladder nor [were] the top or the bottom of the ladder secure in any manner before plaintiff's fall. The lack of safety devices given to the plaintiff constitute both statutory violations of New York's Labor Law §§ 240 (1) & 241(6)." NYSCEF Doc. No. 26.

In opposition, defendant argues, inter alia, that summary judgment should be denied to plaintiff as there is a question of fact as to whether plaintiff was the sole proximate cause of his injuries. NYSCEF Doc. No. 36.

Discussion

As a preliminary matter, defendant has demonstrated a prima facie entitlement to summary judgment on the following claims: the first cause of action for negligence, the second cause of action alleging a violation of Labor Law § 200, and the part of the third cause of action alleging a violation of Labor Law § 240(2). Plaintiff does not oppose defendant's motion for summary judgment on the foregoing causes of action. Accordingly, defendant's motion for partial summary judgment should be granted as to the aforementioned causes of action only.

General Principles

“Labor Law § 240(1) imposes a non-delegable duty upon the owner and contractor to supply necessary security devices for workers at an elevation, to protect them from falling.” Vergara v SS 133 W. 21, LLC, 21 AD3d 279, 280 (1st Dept 2005). “Violation of the statute alone is not enough; plaintiff is obligated to show that the violation was a contributing cause of his fall.” Blake v Neighborhood Hous. Serv. of New York City, Inc., 1 NY3d 280, 287 (2003). Contributory negligence is not a defense. Id.

Owners and contractors also have a non-delegable duty under Labor Law § 241(6), which reads in part, “[a]ll areas in which construction, excavation or demolition work is being performed shall be so constructed, shored, equipped, guarded, arranged, operated and conducted as to provide reasonable and adequate protection and safety to the persons employed therein or lawfully frequenting such places.” “It is well settled that in order to prevail under this section of the Labor Law, a plaintiff must establish that certain ‘concrete specifications’ of the Industrial Code were violated as opposed to a general reiteration of common-law principles. Moreover, a plaintiff must demonstrate that the violation was a proximate cause of the injury.” Padilla v Frances Schervier Hous. Dev. Fund Corp., 303 AD2d 194, 196 (1st Dept 2003).

This Court finds that defendant’s opposition fails to raise any triable issues of material fact.

Here, plaintiff has demonstrated a prima facie entitlement to summary judgment on defendant’s liability pursuant to Labor Law § 240(1) by submitting evidence that the subject ladder placed plaintiff at a significant height differential, and plaintiff was not provided with a safety device, such as a platform scaffold, to prevent an inadvertent fall. These facts are sufficient to demonstrate that defendant is liable under Labor Law § 240 (1) and that defendant’s failure to provide plaintiff with any safety equipment was a proximate cause of plaintiff’s injuries.

Plaintiff has also demonstrated a prima facie entitlement to summary judgment on defendant’s liability pursuant to Labor Law § 241(6) by submitting evidence that the concrete specifications of 12 NYCRR § 23-1.21(b)(4)(iv) were violated, in that the subject work was performed from ladder rungs that were approximately 10 feet above the subject ladder and required that the ladder either be held in place by a person stationed at the ladder’s foot or secured against a side slip. This failure to do so by defendant was a proximate cause of plaintiff’s fall and resulting injuries.

The subject accident falls squarely within the ambit of Labor Law §§ 240(1) and 241(6).

This Court has considered defendant’s other arguments and finds them to be unavailing and/or non-dispositive.

Conclusion

Thus, the motion of defendant, Rambles Real Estate, LLC, for partial summary judgment is hereby granted as to the first and second causes of action, and the part of the third cause of action addressing Labor Law § 240(2) only. Defendant’s motion is denied as to the part of the third cause of action addressing Labor Law § 240(1) and the fourth and fifth causes of action. The motion of plaintiff, Omar Morales, for summary judgment is granted in its entirety. The Clerk is

hereby directed to enter a judgment in favor of plaintiff declaring that defendant, Rambles Real Estate, LLC, violated Labor Law §§ 240(1) and 241(6) and proximately caused plaintiff's June 6, 2022, accident and thus is liable to plaintiff thereunder.

HON. ARTHUR F. ENGORON

11/17/2025
DATE

ARTHUR F. ENGORON, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART	<input checked="" type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE