762 Willoughby LLC v Taylor Willoughby LLC
2025 NY Slip Op 34565(U)
November 24, 2025
Supreme Court, Kings County
Docket Number: Index No. 502875/2023
Judge: Reginald A. Boddie
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At an IAS Commercial Part 12 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at 360 Adams Street, Borough of Brooklyn, City and State of New York on the 24th day of November 2025.

P R E S E N T:
Honorable Reginald A. Boddie
Justice, Supreme Court

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762 WILLOUGHBY LLC,

Plaintiff,

-against-

TAYLOR WILLOUGHBY LLC,

Defendant.

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Index No. 502875/2023

Cal. 1 MS 1

Decision and Order

The following e-filed papers read herein:	NYSCEF Doc Nos.
MS 1	11-37, 41-51

Defendant's motion for summary judgment is decided as follows:

Background

This action arises out of an alleged fraudulent and unauthorized transfer of a property located at 760–762 Willoughby Avenue, Brooklyn, New York 11206 (the "Property") by plaintiff's managing director, Yechezkel Strulovitch ("Strulovitch"), who, despite lacking authority under plaintiff's operating agreement, secretly conveyed the Property to defendant Taylor Willoughby LLC, a straw-entity, as part of a broader scheme to hide assets from creditors and burden the Property with additional debt. Plaintiff alleges that no consideration was paid, the transferee was a mere sham entity using the same address repeatedly used in other fraudulent transfers, and the transfer was executed in collusion with Strulovitch to divest plaintiff of its sole

asset. Plaintiff seeks to void the deed under RPAPL Article 15 or, alternatively, impose a constructive trust.

Plaintiff commenced this action by Summons and Complaint on January 27, 2023. However, no activity occurred in the case for nearly two years, until defendant filed its Answer to the Complaint on January 6, 2025. No discovery has been conducted in this action.

Defendant now moves for summary judgment under CPLR 3212 on its first, third, fourth, fifth, sixth, eighth, and fifteenth affirmative defenses—namely, that the Complaint fails to state a cause of action, that plaintiff lacks standing and capacity, that plaintiff has failed to name a necessary party, that defendant is a bona fide purchaser for value protected by Real Property Law § 266, that plaintiff's claims are conclusively refuted by documentary evidence, and that plaintiff has failed to plead fraud with the particularity required under CPLR 3016(b)—and dismissing the Complaint in its entirety. Defendant argues that it paid over $4.5 million in traceable consideration for the Property, had no notice of any alleged fraud, and reasonably relied on corporate documents reflecting Strulovitch's authority to sell the Property. Plaintiff further contends that even the earlier version of the operating agreement relied on by plaintiff confirms that Strulovitch controlled the necessary ownership interests, that plaintiff lacks standing and capacity because the "claimants" had no authority to sue on its behalf, that the constructive trust claim lacks the requisite elements, and that the fraud allegations are not pleaded with the specificity required pursuant to CPLR 3016 (b).

Defendant also highlights a case decided by this Court in 2024, *853 Lexington LLC v. JB Lexington LLC*, Index No. 534602/2022, arguing that this action closely mirrors the *Lexington* matter. In *Lexington*, the plaintiff advanced nearly identical allegations based on an allegedly similar Strulovitch transaction, using an operating agreement comparable to the 2013 operating agreement in the present action, while the purchaser relied on a later operating agreement, just as

the defendant in the instant action relies on a 2019 operating agreement. This Court in *Lexington* granted summary judgment to the defendant purchaser, finding that the transaction was conducted at arms-length, supported by consideration and free of notice of fraud. Plaintiff contends that the same reasoning applies here: the Complaint repeats the same defects, is contradicted by undisputed documentary evidence, and therefore both the quiet title and constructive trust claims should again be dismissed, with the notice of pendency canceled.

In opposition, plaintiff argues that the motion is premature since no discovery has been conducted and crucial facts and transaction-related documents remain unavailable. Plaintiff contends that the transfer was part of a broader fraudulent scheme by Strulovitch to strip assets using strawman entities, with Eleizer Schwimmer, also known as Mendel Schwimmer ("Schwimmer"), acting as Strulovitch's nominee, supported by Beth Din testimony, a written nominee agreement for another property, and the repeated use of the same mailbox address by multiple sham entities and defendant. Plaintiff further asserts that the operating agreements required consent from the members of Operations LLC to sell the property, that no such consent was obtained, that the 2019 operating agreement and member consent are themselves fraudulent, that large payments to Willoughby Homes LLC and Madison Park Investors LLC are classic red flags that defeat any bona fide purchaser claim, and that plaintiff has standing and capacity to bring the instant action because the Beth Din, under a valid arbitration agreement accepted by Strulovitch, directed plaintiff to commence this action.

In reply, defendant asserts that plaintiff has offered no competent proof of standing or capacity, relying only on the unsworn hearsay statement of a non-party about an alleged Beth Din order and supposed admissions by Strulovitch, without producing the order or any supporting documents. Defendant contends that plaintiff's narrative about a broader fraud scheme, nominee relationships, and other properties rests on hearsay and later transactions that post-date the June

2019 closing at issue and therefore cannot undercut defendant's showing that it was a bona fide purchaser for value, paying over 4.5 million dollars with every dollar traced and no knowledge of any fraud. Defendant further asserts that the shared mailbox, the distributions to Willoughby Homes LLC and Madison Park Investors LLC, and the claimed inconsistencies in the 2019 operating agreement and consent either reflect normal real estate practice or misread basic LLC law, and do not raise a triable issue. Defendant also stresses that plaintiff ignored this Court's *Lexington* decision on virtually identical facts, let the case sit for more than two years without discovery, and has failed to raise any genuine factual dispute that would defeat summary judgment.

Discussion

It is well established that summary judgment is granted when "the proponent makes a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact, and the opponent fails to rebut that showing" (*Brandy B. v Eden Cent. School Dist.*, 15 NY3d 297, 302 [2010] [citation omitted]). Once the proponent has made a prima facie showing, the burden then shifts to the motion's opponent to present evidentiary facts in admissible form sufficient to raise a genuine, triable issue of fact (*Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]). If there is any doubt as to the existence of a triable fact, the motion for summary judgment must be denied (*Rotuba Extruders v Ceppos*, 46 NY2d 223, 231 [1978]). Upon a motion for summary judgment, the court's function is one of issue finding rather than issue determination (*Sillman v Twentieth Century-Fox Film Corp.*, 3 NY2d 395, 404 [1957]). "It is not the function of a court . . . to make credibility determinations or findings of fact, but rather to identify material triable issues of fact (or point to the lack thereof)" (*Vega v Restani Constr. Corp.*, 18 NY3d 499, 505 [2012] [citation omitted]).

The New York Court of Appeals has "repeatedly held that one opposing a motion for summary judgment must produce evidentiary proof in admissible form sufficient to require a trial

of material questions of fact on which he rests his claim or must demonstrate acceptable excuse for his failure to meet the requirement of tender in admissible form; mere conclusions, expressions of hope or unsubstantiated allegations or assertions are insufficient" (*Zuckerman v City of New York*, 49 NY2d 557, 562 [1980] [citations omitted]). Although "the facts must be viewed in the light most favorable to the non-moving party ... bald, conclusory assertions or speculation and [a] shadowy semblance of an issue are insufficient to defeat summary judgment" (*Stonehill Capital Mgt., LLC v Bank of the W.*, 28 NY3d 439, 448 [2016] [citations and internal quotation marks omitted]).

Authority

Plaintiff's first cause of action seeking to quiet title under RPAPL Article 15 is based on the allegation that Strulovitch "was unauthorized to transfer the Property to [defendant]." This claim, however, is conclusively disposed of by documentary evidence in the record.

Under the Amended and Restated Limited Liability Company Operating Agreement dated March 2019 (the "2019 Operating Agreement") (NYSCEF Doc No. 31), the agreement expressly references the "Limited Liability Company Operating Agreement of [plaintiff]" entered into among the same members—plaintiff 762 Willoughby LLC, CSRE LLC ("CSRE"), and 760 Willoughby Operations LLC ("Operations LLC")—as the "Original Agreement" (the "2023 Operating Agreement"), and expressly states that it "amend[s] and restate[s]" the 2013 Operating Agreement. Strulovitch executed the 2019 Operating Agreement as (i) the Manager of CSRE, which is the Managing Member of plaintiff; (ii) the Manager of CSRE; and (iii) the Manager of Operations LLC.

The 2019 Operating Agreement expressly designates Strulovitch as the "Managing Director" of Operations LLC, responsible for managing "the business and affairs of [Operations LLC]." Paragraph 5(a)(i) of the 2019 Operating Agreement provides that "the business and affairs

of [plaintiff] shall be managed by CSRE (the "Managing Member") and the Managing Member shall manage to the best of his capabilities" Paragraph 5(a)(ii) further states that CSRE "is authorized to execute any and all documents on behalf of [plaintiff] necessary or appropriate in connection with the acquisition, financing, operation, management or development of the business and any property of [plaintiff]." Paragraph 5(a)(iv) provides that "selling the Premises" (i.e., the Property) requires "the consent of the Members and the members of CSRE representing at least seventy-eight percent (78%) of the ownership of [plaintiff] in the aggregate." The term "Members" in that provision is defined as plaintiff, CSRE, and Operations LLC collectively.

CSRE's operating agreement (NYSCEF Doc No. 32) expressly confirms that Strulovitch is CSRE's sole member and owns 100% of CSRE's membership interests. Strulovitch also executed the CSRE operating agreement as its "Sole Member."

As to plaintiff's membership structure, the 2013 Operating Agreement on which plaintiff relies includes two schedules. The first schedule confirms that plaintiff had only two members: CSRE, which held a 54% interest, and Operations LLC, which held a 46% interest. The second schedule reflects that non-party Ester Itta Goldman ("Goldman") was a partner of Operations LLC and held a 1.80% "membership initial interest" in plaintiff through Operations LLC.

Contrary to plaintiff's allegations, the governing documents conclusively establish that Strulovitch had full authority to transfer the Property under both the 2019 Operating Agreement that defendant relied on at closing and the 2013 Operating Agreement plaintiff insists governs.

Under the 2019 Operating Agreement, CSRE is expressly designated as plaintiff's Managing Member, and ownership of plaintiff in the aggregate of 78% or above alone is authorized to execute all documents on plaintiff's behalf, including documents relating to the sale of plaintiff's Property. As the Manager of CSRE and the Managing Director of Operations LLC, Strulovitch—acting through CSRE—clearly satisfied the 78% contractual requirements to authorize the sale.

Even assuming that the 2013 Operating Agreement controlled, plaintiff's allegations still fail. Under the 2013 Operating Agreement, CSRE held 54% of plaintiff's membership interests, and Operations LLC held 46%. Both entities were managed and controlled by Strulovitch. When the interests of CSRE and Operations LLC are aggregated under the voting provisions of the 2013 agreement, Strulovitch effectively controlled 100% of plaintiff's voting interests—far exceeding the 78% consent threshold required to sell the Property. The fact that Goldman held a 1.80% interest through Operations LLC does not alter the fact that Strulovitch controlled CSRE and Operations LLC and therefore controlled their votes.

Thus, the documentary evidence establishes that Strulovitch had full authority to convey the Property under both the 2019 Operating Agreement and the 2013 Operating Agreement. Plaintiff's assertion that the sale was unauthorized is supported by neither a factual nor a legal basis and cannot form the basis for a quiet title claim under RPAPL Article 15.

Consideration

Plaintiff also alleges that "the entire Transfer was a sham as [defendant] did not actually provide Plaintiff with any consideration at all, let alone the $4,500,000 recited in the transfer documents or any money transferred was purely illusory." This allegation, however, is similarly conclusively refuted by the documentary evidence.

RPAPL § 266 protects the title of a bona fide purchaser for value who lacked knowledge of an alleged fraud (*see Williams v. Mentore,* 115 AD3d 664, 665 [2d Dept 2014]; *Bouffard v. Befese, LLC,* 111 AD3d 866, 870 [2d Dept 2014]; *Fischer v. Sadov Realty Corp.,* 34 AD3d 630, 631 [2d Dept 2006]). A bona fide purchaser for value has been described as one which purchased property for "valuable consideration" and with no "knowledge" of an "alleged prior fraud by the seller" (*Emerson Hills Realty v. Mirabella,* 220 AD2d 717, 717 [2d Dept 1995]; *see Morris v. Adams,* 82 AD3d 946, 919 [2d Dept 2011]; *see also RPAPL § 266*). The term has also been defined

as "one who purchases real property in good faith, for valuable consideration, without actual or record notice of another party's adverse interests in the property and is the first to record the deed or conveyance" (*Irwin v Regal 22 Corp.*, 175 AD3d 671, 672 [2d Dept 2019] [citation omitted]). To establish that it was a bona fide purchaser for value, defendant had the burden of proving that it purchased the Property for valuable consideration and that it did not purchase with "knowledge of facts that would lead a reasonably prudent purchaser to make inquiry" (*see Berger v. Polizzotto*, 148 AD2d 651, 652 [2d Dept 1989] [citation omitted]).

Here, defendant has met this burden. The record establishes that defendant paid the full purchase price, and every dollar is accounted for through contemporaneous closing documents, wire records, payoff statements, and the sworn affidavit of defendant's principal. Approximately $2.2 million was used to satisfy existing mortgages and liens; an investor buyout was paid pursuant to plaintiff's instruction; and the net seller proceeds were wired exactly as directed by plaintiff's own attorney. These payments were not only well-documented but also made strictly in accordance with the instructions provided by plaintiff and its counsel at the time of closing.

Plaintiff failed to raise any triable issue of fact in opposition to defendant's showing that it was a bona fide purchaser for value of the Property. The only factual affirmation plaintiff offers is from non-party Raphael Baruch Elkaim ("Elkaim"), who claims to be "a representative of certain claimants in an ongoing arbitration proceeding involving … Strulovitch, [p]laintiff, … and many others, concerning a wide array of fraudulent conduct committed by Strulovitch and others associated with him" (NYSCEF Doc No. 41). Elkaim asserts that Strulovitch "admitted to the Beth Din" that another transaction involving 369 Gates Avenue was a "strawman transaction," and further claims that in a personal conversation "Strulovitch directly admitted that both Gates and Willoughby … were properties being held by Schwimmer as his nominee." Elkaim also infers that defendant's use of a commercial mailbox shared by numerous unrelated entities is "evidence

of common control," stating that it is "not coincidence" but purported proof of a nominee relationship. Plaintiff similarly alleges that "[d]efendant's own principal is Strulovitch's admitted nominee on other properties, using the same naming convention and the same mailbox address, is a massive red flag that this transaction was not arms-length but rather part of Strulovitch's scheme to hide assets from creditors and investors."

Notwithstanding these sweeping accusations, neither plaintiff nor Elkaim provides a single document, transcript, recording, Beth Din order, affidavit from Strulovitch, or any admissible proof corroborating any of the alleged admissions or the conclusions drawn from them. Elkaim's statements are not based on personal knowledge of the transaction at issue in the instant proceeding but instead rest on assertions about what he claims Strulovitch "admitted," "testified," or "confirmed."

Further, the "admissions" cited by plaintiff concern separate transactions occurring after the June 2019 closing at issue. Plaintiff fails to establish how defendant's use of a shared corporate mailbox long pre-dating any alleged "admissions" concerning other properties constitutes knowledge of facts that would lead a reasonably prudent purchaser to make an inquiry at the time of the closing of the Property.

Plaintiff's claim that diversion of funds to non-parties constitutes "textbook warning signs of fraud and insider dealing" likewise fails. Plaintiff fails to establish how a purchaser paying valuable consideration exactly as instructed by the seller, who appeared to have full authority under their governing operating agreements, would be on notice of fraud.

As to plaintiff's argument that defendant's failure to submit a title report is "damning," that such a report "would have disclosed the existence of a notice of pendency filed in connection with the EDNY Action, as well as the 2013 Operating Agreement itself," and that such report "would have put Defendant on clear notice that Strulovitch's authority to sell was disputed and that the

Property was subject to competing claims," plaintiff provides no title report, no copy of the alleged notice of pendency, and no evidence that any such report would in fact contain such alleged information. Plaintiff's speculative assertions about what an unproduced title report "would have shown" are insufficient to raise a triable issue of fact.

Accordingly, defendant has established prima facie, and plaintiff has failed to rebut, that defendant was a bona fide purchaser for value without notice of any alleged fraud. The documentary evidence further confirms the validity of the transfer of the Property and Strulovitch's authority to convey the Property to defendant. As plaintiff has not raised any triable issue of material fact as to authority, consideration, or notice, the branch of defendant's motion for summary judgment based on its sixth affirmative defense that it was a bona fide purchaser for value without notice of any alleged fraud and its eighth affirmative defense that plaintiff's causes of action are refuted by documentary evidence is granted.

Conclusion

Based on the foregoing, the branch of defendant's motion for summary judgment premised on its sixth and eighth affirmative defenses is granted, and the complaint is dismissed in its entirety. It is further ORDERED that the Notice of Pendency dated January 27, 2023 (NYSCEF Doc No. 7), is canceled pursuant to CPLR 6514(a).

Any argument not explicitly addressed herein was considered and deemed to be without merit or unnecessary to address given the court's determination.

ENTER:

Honorable Reginald A. Boddie
Justice, Supreme Court

HON. REGINALD A. BODDIE
J.S.C.