

Harlow Mezz, LLC v Global Inv. Fund I

2025 NY Slip Op 34689(U)

December 5, 2025

Supreme Court, New York County

Docket Number: Index No. 652734/2025

Judge: Melissa A. Crane

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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. MELISSA A. CRANE PART 60M

Justice

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HARLOW MEZZ, LLC, THE COVE MEZZ, LLC, LURIN REAL ESTATE HOLDINGS LV, LLC, LURIN REAL ESTATE HOLDINGS LVIII, LLC

Plaintiff,

- v -

GLOBAL INVESTMENT FUND I, AMERICAN FAMILY LIFE ASSURANCE COMPANY OF COLUMBUS, DELPHI CRE FUNDING, LLC, A CORE CAPITAL MORTGAGE, LP,

Defendant.

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INDEX NO. 652734/2025
MOTION DATE 10/16/2025
MOTION SEQ. NO. 003

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 003) 95, 96, 97, 98, 99, 100, 101

were read on this motion to/for JUDGMENT - DEFAULT

Defendants move, pursuant to CPLR 3215, for a default judgment on Defendants' Counterclaim against Plaintiffs Harlow Mezz, LLC ("Harlow") and The Cove Mezz, LLC ("Cove"). Further, Defendants move, pursuant to CPLR 3217(b), to voluntarily dismiss their Counterclaim against Plaintiffs Lurin Real Estate Holdings LV, LLC ("LV") and Lurin Real Estate Holdings LVIII, LLC ("LVIII"). The motion is unopposed.

Background

Plaintiffs commenced this action and moved, by order to show cause, to stop two UCC foreclosure sales. Defendants answered the complaint and filed a counterclaim seeking damages for Plaintiffs' breach of two Pre-Negotiation Agreements ("PNAs") (Doc. No. 65 [Answer with Counterclaims], ¶¶ 45-51). In the counterclaim, defendants contend that plaintiffs breached provisions of the PNAs by claiming that the parties entered into a forbearance agreement (id., ¶¶ 34-54). Specifically, defendants state:

“First, Plaintiffs disclosed the parties’ settlement discussions and introduced them in this litigation in violation of the terms of the PNAs.

. . . Second, Plaintiffs asserted that a forbearance agreement existed staying Defendants’ enforcement of their remedies under the Loan Documents, and on that basis Plaintiffs moved for and obtained an order enjoining the UCC Sales. Yet, no such forbearance agreement existed, as they repeatedly acknowledged”

(*id.*, paras 50-51).

Ultimately, the court denied plaintiffs’ motion for a preliminary injunction (Doc 62 [5/8/25 decision and order]), and defendants purchased the mortgaged properties at auction. After the injunction motion was denied, Plaintiffs defaulted in this action by failing to appear and the court struck plaintiffs’ pleadings (Doc 94 [9/16/25 Order]). Defendants now move for a default judgment. Plaintiffs did not oppose this motion.

Discussion

First, the court grants the unopposed motion to the extent that defendants seek to voluntarily dismiss the counterclaim against LV and LVIII (CPLR 3217). Next, the court grants in part defendants’ motion for a default judgment against Harlow and Cove on the issue of liability only.

A party seeking entry of a default judgment must establish the facts constituting the claim (*Gantt v North Shore-LIJ Health Sys.*, 140 AD3d 418, 418 [1st Dept 2016]). To establish a claim for breach of contract, the party must show “the existence of a contract, the [party]’s performance thereunder, the [opposing party]’s breach thereof, and resulting damages” (*Markov v Katt*, 176 AD3d 401, 401-402 [1st Dept 2019]).

Defendants entered PNAs with Harlow and Cove (Doc. Nos. 51 and 52 [Pre-Negotiation Agreements]). In addition, Defendants adequately assert that Harlow and Cove breached the PNAs by divulging settlement communications (e.g. Doc. Nos. 51 and 52, § 1). As for damages,

defendants assert in their verified answer that they “have suffered damages in an amount to be determined at trial” (Doc 65, ¶ 54). In the memorandum of law, defendants’ counsel states that plaintiffs’ “violations of the PNAs resulted in the enjoinder of Defendants’ UCC Sales, thereby forcing Defendants to incur significant expenses, costs, and fees” (Doc 100 at 8). However, in their affidavits supporting this default motion, neither Mr. Mann nor Mr. Robson [defendants’ representatives] explain what, if any, damages defendants sustained (Docs 96-97).

Thus, the court grants the default judgment motion as to liability only, against Harlow and Cove. The court will hold an inquest on papers to determine the damages amounts, if any, that defendants sustained from the breaches. In addition to the damages amounts, defendants will have to demonstrate that their damages are not also being addressed through the underlying loan documents and guarantees that likely include provisions for recovering enforcement-related fees and costs.

The inquest will be held on papers [no appearance] on December 19, 2025 at 10:00 AM unless the parties request an in-person appearance by emailing the court, cc’ing all sides, at SFC-Part60@nycourts.gov on or before December 15, 2025 at 5:00 PM. All submissions in support of the inquest must be e-filed by December 11, 2025, and any opposition papers must be e-filed by December 18, 2025.

Accordingly, it is

ORDERED that defendants’ motion to voluntarily dismiss the counterclaim against plaintiffs LURIN REAL ESTATE HOLDINGS LV, LLC and LURIN REAL ESTATE HOLDINGS LVIII, LLC is granted, and the counterclaim is dismissed as against these plaintiffs; and it is further

ORDERED that defendants' motion for a default judgment against the Harlow and Cove defendants is granted on the issue of liability; and it is further

ORDERED that the court will hold an inquest on papers on 12/19/25 at 10:00 AM, unless the parties request an in-person appearance by emailing the court, cc'ing all sides, at SFC-Part60@nycourts.gov on or before December 15, 2025 at 5:00 PM. All submissions in support of the inquest must be e-filed by December 11, 2025, and any opposition papers must be e-filed by December 18, 2025; and it is further

ORDERED that defendants shall serve a copy of this decision and order with notice of entry upon all plaintiffs by certified mail, return receipt requested, no later than 12/8/25; and it is further

ORDERED, ADJUDGED, and DECLARED that:

- a. Plaintiffs are not entitled to a "decree compelling Defendants to perform under the terms of the parties' forbearance agreement";
- b. the Loan Documents are not in good standing, the defaults declared by the Defendants are enforceable, and Plaintiffs are not entitled to more time to obtain refinancing of the debt;
- c. the UCC Sale Notices are not void, as a matter of law, and the terms of sale are commercially reasonable; and
- d. the Pledge Agreement does not "violate New York's anti-clogging precedent" and it is not void;

And it is further

ORDERED that the complaint is dismissed as against all defendants (Doc 94 [Case Mgmt Order]), and the counterclaim is dismissed against plaintiffs LURIN REAL ESTATE HOLDINGS LV, LLC and LURIN REAL ESTATE HOLDINGS LVIII, LLC; and it is further

ORDERED that the Clerk is directed to mark this case disposed; and it is further

ORDERED that there shall be no motion practice in this case without a pre-motion conference with the court.

12/5/2025

DATE



MELISSA A. CRANE, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: