

**Matter of 979 Second Ave. LLC v Golden Billion Trust**

2025 NY Slip Op 35034(U)

December 24, 2025

Supreme Court, New York County

Docket Number: Index No. 654423/2023

Judge: John J. Kelley

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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. JOHN J. KELLEY **PART** **56M**

*Justice*

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In the Matter of

979 SECOND AVENUE LLC,

Petitioner,

- v -

GOLDEN BILLION TRUST, BAKERHOOD REALTY, INC.,  
AS TRUSTEE, WAH-MART GROUP (NY) CORP., and YUE  
WAH CHAO also known as WINNIE CHAO,

Respondents.

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**INDEX NO.** 654423/2023

10/22/2025

10/22/2025

**MOTION DATE** 10/22/2025

**MOTION SEQ. NO.** 004, 006, 007

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 004) 140, 141, 142, 143, 144, 145, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 190, 191, 196, 204, 205, 206, 207

were read on this motion to/for REAL PROPERTY - APPROVE SALE.

The following e-filed documents, listed by NYSCEF document number (Motion 006) 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 177, 178, 179, 180, 181, 182, 192, 194, 195, 197, 199, 200, 201, 209

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

The following e-filed documents, listed by NYSCEF document number (Motion 007) 183, 184, 185, 186, 187, 188, 189, 193, 198, 202, 203

were read on this motion to/for CANCEL LIS PENDENS.

This is a proceeding that sought a turnover, to the petitioner, of the assets of the respondent judgment debtors Wah-Mart Group (NY) Corp. (Wah-Mart), and Yue Wah Chao, also known as Winnie Chao (hereinafter together the judgment debtors), to set aside fraudulent conveyances of real property made by the judgment debtors to the respondents Golden Billion Trust and Bakerhood Realty, Inc., as Trustee, and for the appointment of a receiver to manage, lease, and potentially sell that real property to satisfy the underlying judgment debts. In an order dated August 21, 2024, this court granted the petition, and vacated and annulled the deeds purporting to convey the real property, consisting of condominium apartments

respectively located at 325 Fifth Avenue, #35E, New York, New York, 155 West 71st Street, #5J, New York, New York, and 50 Bayard Street, #4F, New York, New York. In addition, the court restrained the respondents from transferring or encumbering that real property pending further order of the court, and granted the branch of the petition that sought the appointment of a receiver, indicating that it would appoint a particular receiver in a separate order.

In an order dated September 25, 2024, this court appointed Jake Paul Dilemani to act as the receiver of the three condominium apartment units respectively located at 325 Fifth Avenue, #35E, New York, New York, 155 West 71st Street, #5J, New York, New York, and 50 Bayard Street, #4F, New York, New York, with the usual powers and duties of a receiver, both during and subsequent to the pendency of this proceeding, for the benefit of the petitioner, to collect all of the rents and profits now due and unpaid or may become due and issuing out of the subject property. The court further authorized Dilemani to forthwith take charge and enter into possession of the subject properties. In addition, the court ordered that Dilemani, or any party hereto could, at any time, and on proper notice to all parties who may have appeared in the proceeding and who have not waived such notice, apply to this court for further and other instructions or powers necessary to enable the receiver properly to fulfill his duties.

The petitioner now moves to approve the sale of the three condominium apartment units (MOT SEQ 004) to enable Dilemani to fulfill his duties. The respondents oppose that motion. That motion is granted, and Dilemani is authorized to sell those units for the purpose of allocating the proceeds of sale to satisfy outstanding money judgments in the sums of \$105,732.62 that had been entered in the petitioner's favor and against Chao on March 17, 2022 in the action entitled *979 Second Ave., LLC v Chao*, Sup Ct, N.Y. County, Index No. 654145/2021 (Edwards, J.), \$30,767.76 that had been entered against the respondents Wah-Mart (NY) and Chao on July 20, 2022 in the action entitled *see 979 Second Ave., LLC v Wah-Mart (NY) Corp. and Chao*, Sup Ct, N.Y. County, Index No. 154780/2022, Jul. 20, 2022 (Bluth, J.), and \$468,705.57 that had been entered against Chao on March 8, 2023 in the action

entitled *979 Second Ave., LLC v Chao*, Sup Ct, N.Y. County, Index No. 654096/2022, Mar. 8, 2023 (Frank, J.). The respondents move to vacate this court's order and judgment dated August 21, 2024, and other orders entered herein (MOT SEQ 006). The petitioner opposes that motion. That motion is denied. The petitioner separately moves to vacate notices of pendency that Chao had filed on September 19, 2025 in connection with the condominium units located at 50 Bayard Street, #4F, New York, New York and 155 West 71st Street, #5J, New York, New York (MOT SEQ 007). The respondents oppose that motion. That motion is granted.

Where, as here, a receiver is appointed to manage real property owned by a judgment debtor, and the court has previously authorized the receiver, upon proper application, to sell the property if the collection of rents or maintenance is insufficient to satisfy the judgment debts, it is appropriate for the court to authorize and direct the receiver to sell the property (*see Kalajjian v Grahel Assocs., LLC*, 2021 NY Misc. LEXIS 14873 [Sup Ct, Suffolk County, Jan. 8, 2021]). This remedy is particularly appropriate where, as here, the respondents have done all in their power to avoid paying their judgment obligations, and have taken numerous steps to interfere with this court's prior orders and directives appointing Dilemani as a receiver, and authorizing him to take possession and control thereof to collect rents and maintenance, and thereupon to apply those monies to the satisfaction of the three underlying money judgments. Hence, the petitioner's motion to compel the sale of the three condominium units identified above is granted.

The respondents' motion to vacate this court's prior order and judgment, which granted the petition, or its prior order appointing a receiver, must be denied, since the respondents raise no plausible or colorable argument as to why those determinations were incorrect or invalid. The respondents' contention that this court's prior orders and judgment were unconstitutionally issued is frivolous, since the respondents were afforded full due process rights in all three underlying actions to recover damages for breach of a lease, including notice, an opportunity to be heard before a neutral magistrate or tribunal, and the right to appeal any adverse determination, and they were afforded full due process rights in connection with this proceeding

as well. The Fourteenth Amendment to the United States Constitution provides only that a state may not “deprive any person of . . . property, without due process of law” (US Const., 14th Amend, sec. 1). It does not prohibit a state, acting through its judiciary, of depriving a person of property where he or she is afforded the full panoply of procedural rights, money judgments are entered, and statutory modes of collection are authorized by the court. Moreover, the appointment of a receiver to take possession of real property owned by a judgment debtor to satisfy the debt is a perfectly constitutional exercise of the judicial function, even if the appointment had been effectuated without notice to the debtor (*see State St. Bank & Trust Co. v. Broadway/St. Nicholas Assocs.*, 214 AD2d 474, 475 [1st Dept 1995]), which nonetheless was provided to the respondents here. The mere fact that the respondents were unsuccessful in their defenses is not a ground for vacatur of any order or judgment implicated in this matter.

In this respect, the court notes that the respondents rely only upon a determination of another justice in this jurisdiction, in an unrelated proceeding involving the parties to this proceeding, where that court declined to strike down as unconstitutional the New York City moratorium on the enforcement personal guaranties in effect during the COVID-19 emergency, and, thus, denied the petitioner’s motion for summary judgment in lieu of complaint on a personal guarantee (*see 979 Second Ave., LLC v Chao*, Index No. 652153/2023 [Sup Ct, N.Y. County, Nov. 14, 2023] [Frank, J.]). That action has nothing to do with the money judgments entered against the respondents under Index Nos. 654145/2021, 154780/2022, and 654096/2022, in which the judgments were validly calculated, obtained, and entered.

“The purpose of the notice of pendency is ‘to afford constructive notice from the time of the filing so that any person who records a conveyance or encumbrance after that time becomes bound by all of the proceedings taken in the action’” (*2386 Creston Ave. Realty, LLC v. M-P-M Mgt. Corp.*, 58 AD3d 158, 161 [1st Dept 2008], quoting *Corporation of Presiding Bishop of Church of Jesus Christ of Latter-Day Saints v Solow Bldg. Corp.*, 52 AD2d 533, 534, [1st Dept 1976]). “Pursuant to CPLR 6501, the filing of a notice of pendency provides

constructive notice of an action in which the judgment demanded may affect the title to real property” (*HSBC Bank USA, N.A. v Minogue*, 202 AD3d 662, 663 [2d Dept 2022], quoting *Wells Fargo Bank, N.A. v Lance*, 196 AD3d 535, 536 [2d Dept 2021] [internal quotation marks omitted]). Where real property is foreclosed upon, or other judicial proceedings deprive a party of an ownership interest in real property, that party no longer has a right or title to the property, or an interest therein, and, hence, cannot properly file a notice of pendency with respect to that property (see *Castiglia v Colonial Pines, Inc.*, 187 AD2d 994, 994-995 [4th Dept 1992]). Where a notice of pendency is wrongfully filed because the party filing the instrument does not have a right or title to the property, or an interest therein, it is appropriate for a court to vacate the notice of pendency (see *Corey v 862 9th Ave. Assoc., LLC*, 2023 NY Slip Op 32887[U], \*5, 2023 NY Misc LEXIS 4356, \*12 [Sup Ct, N.Y. County, Aug. 15, 2023]). Once this court appointed Dilemani as a receiver, and authorized him to take possession of the subject condominium apartment units, none of the respondents retained any right, title, or interest in those units. Moreover, the judgments in the underlying breach of contract actions are final, and have not been reversed on appeal; the judgment in this turnover proceeding is final, as is this court’s order appointing a receiver to take possession of the property, and neither of them is the subject of any pending appeal. The court concludes that Chao filed the notices of pendency solely to thwart the receiver’s anticipated sales of the subject condominium units. Since the notices of pendency were wrongfully filed, the court must grant the petitioner’s motion to vacate them.

In light of the foregoing, it is,

ORDERED that the petitioner’s motion to approve the sale of the three condominium apartment units (MOT SEQ 004) respectively located at 325 Fifth Avenue, #35E, New York, New York, 155 West 71st Street, #5J, New York, New York, and 50 Bayard Street, #4F, New York, New York, for the purpose of applying the proceeds of sale to the satisfaction of money judgments in the sum of \$105,732.62 that had been entered against the respondent Yue Wah Chao, also known as Winnie Chao, in the action entitled *979 Second Ave., LLC v Chao* (Sup Ct,

N.Y. County, Index No. 654145/2021, Mar. 17, 2022) (Edwards, J.), in the sum of \$30,767.76 that had been entered against the respondents Wah-Mart (NY) and Yue Wah Chao, also known as Winnie Chao, in the action entitled *979 Second Ave., LLC v Wah-Mart (NY) Corp. and Chao* (Sup Ct, N.Y. County, Index No. 154780/2022, Jul. 20, 2022) (Bluth, J.), and \$468,705.57 that had been entered against Yue Wah Chao, also known as Winnie Chao, in the action entitled *979 Second Ave., LLC v Chao* (Sup Ct, N.Y. County, Index No. 654096/2022, Mar. 8, 2023) (Frank, J.), is **granted**, and the receiver Jake Paul Dilemani be, and hereby is, authorized to sell those three condominium apartment units, respectively located at 325 Fifth Avenue, #35E, New York, New York, 155 West 71st Street, #5J, New York, New York, and 50 Bayard Street, #4F, New York, New York, in accordance with the directives set forth below, and thereupon to apply the proceeds of those sales to the satisfaction of those three judgments; and it is further,

ORDERED that the respondents' motion to vacate this court's August 21, 2024 order and judgment, or any other order or judgment entered herein (MOT SEQ 006) is **denied**; and it is further,

ORDERED that the petitioner's motion to cancel and vacate the notices of pendency (MOT SEQ 007) that the respondents filed on September 19, 2025 in connection with the condominium units located at 50 Bayard Street, #4F, New York, New York and 155 West 71st Street, #5J, New York, New York, which had been uploaded as Docket Entry Nos. 171 and 172 in the New York State Court Electronic Filing system, is **granted**, those notices of pendency are vacated, and within 15 days of the entry of this decision and order, the petitioner shall serve a copy of this decision and order upon both the County Clerk and the Clerk of the General Clerk's Office, which shall be effectuated 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, to comply with those procedures, the plaintiff shall (1) upload the decision and order to the NYSCEF system under document title "SERVICE ON SUPREME COURT CLERK (GENL CLERK) W/COPY OF ORDER" **AND** (2) separately file and

upload the notice required by CPLR 8019(c) in a completed Form EF-22, along with a copy of the decision and order, under document title "NOTICE TO COUNTY CLERK CPLR 8019(C)," upon which the County Clerk and all appropriate court support offices shall thereupon amend the court records accordingly to reflect that the notices of pendency have been cancelled and vacated; and it is further,

ORDERED that, in connection with the authority that this court had granted to the receiver to sell the three condominium apartment units, respectively located at 325 Fifth Avenue, #35E, New York, New York, 155 West 71st Street, #5J, New York, New York, and 50 Bayard Street, #4F, New York, New York, the receiver be, and hereby is, authorized to retain a commercial broker, upon approval of the court, and subject to the requirements of Rule 36 of the Chief Judge, to assist in the sale of the several premises described herein; and it is further,

ORDERED, that (a) the purchaser or purchasers of any of the premises will be required to sign a contract acceptable to the receiver in form and substance; (b) the purchaser or purchasers shall take the premises subject to (i) any state of facts that would be shown by an accurate survey; (ii) any and all covenants, restrictions, encroachments, right of way, easements, agreements and reservations, if any, whether or not of record; (iii) any and all statutes, rules, and ordinances of the municipality in which the premises are located, or of any other governmental or quasi-governmental authority having jurisdiction against or affecting the premises, and any violations thereof; (iv) any and all tenancies, licenses, possessory interests, and/or leases affecting the premises; (v) the physical condition of any building or structure on the premises, which are sold "as is" as of the date of the any sale or transfer; (vi) any claims by any tenants or state, city, municipal, or governmental departments, agencies, or entities; and (vii) any variation between the tax lot boundary lines and the legal description; and (c) the seller will pay the New York State and New York City Real Property Transfer Tax, if any, imposed in connection with the conveyance; and it is further,

ORDERED, that the receiver will accept the most advantageous offer or offers for the purchase of the several premises; and it is further,

ORDERED, that the net proceeds of the sale, after the payment of necessary closing costs, shall be held in escrow by the receiver pending the approval of this court of any distribution thereof; and it is further,

ORDERED that the receiver may retain counsel for the purpose of initiating or continuing any legal proceedings, or selling/transferring title to the aforesaid premises and acting as escrow agent in connection therewith, and may utilize support personnel or staff as deemed necessary in fulfilling his commission and appointment; and it is further,

ORDERED that the receiver may also, in his discretion, if deemed appropriate and warranted, take over control of the respondent entities Golden Billion Trust, Bakerhood Realty, Inc., as Trustee, and Wah-Mart Group (NY) Corp., as well as being allowed to direct the management and employees thereof so that he may wind down these entities; and it is further,

ORDERED that the receiver may retain a management company, upon approval of the court, and subject to the requirements of Rule 36 of the Chief Judge, to assist him in fulfilling his commission and appointment; and it is further,

ORDERED that the parties to this action and their representatives or designated agents, servants, employees, or attorneys, and each of them, are hereby enjoined and restrained from collecting any rents or profits of or from any of the premises, or from any part thereof, and from taking, expending, or distributing any funds belonging or inuring to the benefit of Golden Billion Trust, Bakerhood Realty, Inc., as Trustee, and Wah-Mart Group (NY) Corp., in their possession and/or control for any purposes, and from interfering in any manner with the receiver in fulfilling his commission and appointment; and it is further,

ORDERED that any tenants of the several premises and all persons liable for said rents and profits are hereby enjoined and restrained from paying any rents or profits to any party other than the receiver, his agents, servants, employees, or attorneys; and it is further,

ORDERED the parties to this action, their designated or representative agents, servants, employees, and attorneys, shall provide the receiver or his designated agent with true and complete copies of (a) all bank records and/or documents in their actual or constructive possession or control relating to the rents and profits from the premises, commencing with the date on which this proceeding was commenced until the present, (b) all leases, subleases, licenses, and other agreements with tenants or occupants of the several premises, and (c) all contracts, licenses, leases, and subleases for equipment and building systems and services referable specifically to the several premises; and it is further,

ORDERED that the parties are to deliver any and all funds in their possession and/or control belonging to or inuring to the benefit of Golden Billion Trust, Bakerhood Realty, Inc., as Trustee, and Wah-Mart Group (NY) Corp. to the receiver via check, made payable to "Jake P. Dilemani, as Receiver" or by wire or automated clearing house transfer at his instruction; and it is further,

ORDERED that the receiver may seek further clarification or expansion of his authority to address other related interests of the premises or his previous appointment; and it is further,

ORDERED that the receiver shall retain all monies that he may receive by virtue of his receivership until further order of this court, except to the extent that this order expressly authorizes him to pay out such monies for the maintenance and preservation of the several premises; and it is further,

ORDERED that in accordance with the provisions of 22 NYCRR 202.52(a) and (b), the receiver shall promptly deposit all monies received by him in an interest on lawyer's account (IOLA) maintained by any attorney whom he may retain, in an Federal Deposit Insurance

Corporation-approved bank, in the receiver's name, identifying the name of this action; and it is further,

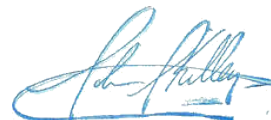
ORDERED that the receiver, or any party to this action, at any time and upon proper notice to all parties to the action, and to the receiver himself, may apply to this court for further or additional instructions and powers whenever such instructions or additional powers shall be deemed necessary in order to enable the receiver to perform properly and legally the duties of his office, or for modification of any of the terms of this order; and it is further,

ORDERED that any attorney or professional fees to be paid by the receiver shall not be paid without prior approval of the court and proper notice to all parties; and it is further,

ORDERED that no fee shall be paid to the receiver until he has filed and completed Form USC-830 in full, whereupon the court shall award the receiver compensation based upon statute and the fair and reasonable value of the services that he rendered in this action; and it is further,

ORDERED that the receiver shall keep written accounts and itemized receipts of authorized expenditures, which accounts shall be open for inspection by the parties to this action, and he may retain accountant(s) and/or tax advisor(s) upon approval of the court, and subject to the requirements of Rule 36 of the Chief Judge, to assist him in fulfilling his commission and appointment, which may include the filing of accounting report(s), tax return(s), or other required filings.

This constitutes the Decision and Order of the court.



JOHN J. KELLEY, J.S.C.

12/24/2025

DATE

MOTION 004:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

MOTION 006:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

MOTION 007:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER