

Peeples v HP Sea Girt Hous. Dev. Fund Co., Inc.

2025 NY Slip Op 35331(U)

October 2, 2025

Supreme Court, Queens County

Docket Number: Index No. 708547/2021

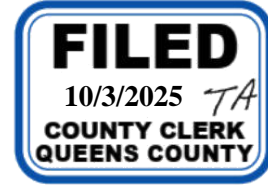
Judge: Anna Culley

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Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY



Present: HONORABLE ANNA CULLEY IA Part 27 Justice

MARGARET PEEPLES, Plaintiff,

Index Number 708547/2021

-against-

Motion Date January 21, 2025

HP SEA GIRT HOUSING DEVELOPMENT FUND COMPANY, INC., and INTEGRALIFT ELEVATOR SERVICES LLC, Defendant.

Mot Seq. No. 20

HP SEA GIRT HOUSING DEVELOPMENT FUND COMPANY, INC., Third-Party Plaintiff,

-against-

INTEGRALIFT ELEVATOR SERVICES LLC, Third-Party Defendant.

The following numbered papers read on this motion by defendant/third-party plaintiff HP Sea Girt Housing Development Fund Company, Inc. ("HP Sea Girt"), for an order, pursuant to CPLR 3212, granting summary judgment in its favor against defendant/third-party Defendant Integralift Elevator Services LLC ("Integralift") on its third-party action claims for common law indemnification and contribution, and dismissing Integralift's cross claims as asserted against it.

Table with 2 columns: Document Description and Papers Numbered. Includes entries for Notice of Motion - Affidavits - Exhibits, Answering Affidavits - Exhibits, and Reply Affidavits.

Upon the foregoing papers, it is ordered that the motion is determined as follows:

In the underlying action, plaintiff seeks to recover damages for injuries she allegedly sustained on February 24, 2021, when she tripped and fell entering into a mis-leveled elevator in the lobby of her apartment building owned by HP Sea Girt and located at 711A Seagirt Avenue, Far Rockaway, New York 11691. Integralift is purportedly the company contracted by HP Sea Girt to maintain, service and repair the subject property's elevators, pursuant to a servicing contract that was in effect on the date the accident.

On May 20, 2021, HP Sea Girt interposed its Verified Answer, consisting of general denials and fifteen affirmative defenses.

On March 25, 2022, HP Sea Girt commenced a third party action against Integralift setting forth causes of action for common law indemnification, contribution, breach of contract and contractual indemnification.

On April 28, 2022, Integralift interposed its Verified Answer to the third-party complaint and set forth six counter-claims against HP Seagirt for, inter alia, contributory negligence, common law and contractual indemnification, and breach of contract for failure to procure insurance.

By Order of the Hon. Darrell L. Gavrin, dated May 24, 2022, plaintiff was granted leave to amend the Complaint naming Integralift as a main party defendant.

The instant action then proceeded through a tortured discovery process, with the record reflecting that seventeen discovery motions have been brought by the parties seeking various forms of relief.

HP Sea Girt now brings the instant motion for an order, pursuant to CPLR 3212, granting summary judgment in its favor against Integralift on its third-party action claims for common law indemnification and contribution, and dismissing Integralift's cross claims as asserted against it. Plaintiff and Integralift oppose.

"Summary judgment is a drastic remedy and should not be granted when there is any doubt as to the existence of a triable issue of fact" (*Trio Asbestos Removal Corp v Gabriel & Sciacca Certified Pub. Accountants, LLP*, 164 AD3d 864, 865 [2d Dept 2018]).

It is well settled that the proponent of a summary judgement motion must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of a material issue of fact and that failure to make said showing requires denial of the motion, regardless of the sufficiency of any opposition (*Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851 [1985]).

As is relevant here, a “property owner can be held liable for an elevator-related injury where there is a defect in the elevator, and the property owner has actual or constructive notice of the defect...or where it fails to notify the elevator company with which it has a maintenance and repair contract about a known defect” (*Tucci v Starrett City, Inc.*, 97 AD3d 811, 812 [2d Dept 2012])

Relatedly, an “elevator company which agrees to maintain an elevator in safe operating condition may be liable to a passenger for failure to correct conditions of which it has knowledge or failure to use reasonable care to discover and correct a condition which it ought to have found” (*Carter v Nouveau Indus., Inc.*, 187 AD3d 702, 703 [2d Dept 2020][internal citation omitted]). “Further, a party who enters into a contract to render services may be said to have assumed a duty of care—and thus be potentially liable in tort—to third persons . . . where the contracting party has entirely displaced the other party's duty of safe maintenance” (*Id.*, internal citation omitted).

Here, HP Sea Girt argues that it did not have any role in causing plaintiff’s accident allegedly caused by a mis-leveled elevator, and that, were it to be found liable to plaintiff, it is entitled to indemnification from Integralift pursuant to a servicing contract, as Integralift was the only company responsible to maintain, service, and repair the subject elevator that allegedly caused plaintiff’s injuries.

In support of their motion, HP Sea Girt refers to the subject servicing contract and payment invoices which were previously filed in a response to a discovery demand, and further submits deposition transcripts of: Alter Weinberger, president and chief operating officer for Integralift; Peter Garcia, managing agent of HP Sea Girt; Derick Simmons, Integralift’s former employee who serviced the subject elevator; and Charles Caminiti, employee of Integralift who was a mechanic for the company.

HP Sea Girt’s contentions are unavailing and it fails to make its prima facie showing and eliminate all triable issues of fact.

The servicing contract that the movant relies to establish that Integralift was solely responsible for all aspects of the subject elevator states, inter alia, that Integralift “shall not be responsible for leveling of cars at landings”, and further required HP Sea Girt, as the property owner, to “inspect and detect irregularities...in operation...and provide notice of said condition to” Integralift upon their discovery.

Furthermore, HP Sea Girt has failed to establish that Integralift received any notice of the alleged mis-leveling condition, thus eliminating all triable issues of fact on whether Integralift’s actions, or inactions, contributed to or caused plaintiff’s accident.

As to the branch of the motion seeking to dismiss certain cross-claims set forth in Integralift’s answer to the third-party complaint, such is granted in part.

The servicing contract between HP Sea Girt and Integralift is silent as to requiring HP Sea Girt to contractual indemnify Integralift or to procure liability insurance naming Integralift as an

additional party. Furthermore, Integralift fails to set forth any opposition related to these cross-claims. As such, Integralift’s fourth cross-claim for contractual indemnification and it’s fifth cross-claim for breach of contract in failing to procure insurance, are hereby dismissed. To the extent that HP Sea Girt seeks dismissal of Integralift’s remaining cross-claims, such is denied.

Any remaining arguments raised, or relief sought, by the movant not specifically addressed herein have been considered by the Court and are further denied.

Accordingly, it is

ORDERED that the branch of defendant/third-party plaintiff HP Sea Girt Housing Development Fund Company, Inc.’s motion for summary judgment on its claims for common law indemnification and contribution against defendant/third-party defendant Integralift Elevator Services LLC is denied; and it is further

ORDERED that the branch of the motion seeking summary judgment and dismissal of all cross-claims asserted by defendant/third-party defendant Integralift Elevator Services LLC is granted, solely to the extent that the fourth cross-claim for contractual indemnification and the fifth cross-claim for breach of contract for failing to procure insurance are hereby dismissed, and is otherwise denied.

Movant is not relieved from the applicable provisions of CPLR 2220 and 202.5-b (h) (2) of the Uniform Rules of Supreme and County Courts insofar as it relates to service and notice of entry of the filed document upon all other parties to the action/proceeding, whether accomplished by mailing or electronic means, whichever may be appropriate dependent upon the filing status of the party.

The foregoing constitutes the decision and order of this court.


ANNA CULLEY, J.S.C.

Dated: October 2, 2025

