

Clark v Dais
2025 NY Slip Op 35593(U)
January 29, 2025
Supreme Court, Rockland County
Docket Number: Index No. 031814/2022
Judge: David Fried
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To commence the statutory time period for appeals as of right (CPLR §5513 [a]), you are advised to serve a copy of this Order, with notice of entry, upon all parties.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

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MONIQUE H. CLARK a/k/a MONIQUE HILL and
ANTOINE CLARK,

Plaintiffs,

DECISION & ORDER

-against-

Index No. 031814/2022
Motion Sequence No. 4

OSCAR DAIS, GOLDBERG PROPERTIES LLC,
RUBINSTEIN ESTATES LLC, RICHARD
STEINBERG, SHERRY STEINBERG, JASON
STEINBERG, "JOHN DOE(S) AND JANE DOE(S),"
NEW YORK ABSTRACT AND AGENCY INC,
JERROLD W. MILES, WILMINGTON SAVINGS
FUND INC, FBS, NOT IN ITS INDIVIDUAL
CAPACITY BUT SOLELY AS TRUSTEE FOR
RESIDENTIAL MORTGAGE AGGREGATION
TRUST, AKINYINKA OLATEJU, and
"JOHN ROE #1 THROUGH #12," the last twelve
names being fictitious and unknown to plaintiffs, the
persons or parties intended being the tenants, licensees
and/or occupants of 12 Lea Court, Pomona, New York
10970,

Defendants.

-----X
HON. DAVID FRIED, A.J.S.C.

The papers filed electronically via NYSCEF numbered 201 through and including 219 ("Motion") were read and considered herein. Upon such reading and consideration, the Motion is disposed as follows:

BACKGROUND

Plaintiffs Monique H. Clark a/k/a Monique Hill and Antoine Clark ("Plaintiffs") seek to recover possession of 12 Lea Court, Pomona, New York ("property"), claiming to be the owners thereof with

a right to occupy and use same. Since commencement, it has been alleged, *inter alia*, that the deed transferring the property from Plaintiffs to Goldberg Properties, LLC, as well as other contracts, short sale documents, and a power of attorney, are forgeries. It is specifically alleged that the purportedly forged signature for Monique H. Clark a/k/a Monique Hill, transferring her interest in the property to Goldberg Properties, LLC, was notarized in New York while she was in the Dominican Republic, and that her “signature” on that deed appears markedly different from her signature on other prior verified documents. Similarly, on a power of attorney appointing Defendant Oscar Dais as an agent for Antoine Clark, it is alleged that Antoine Clark’s purportedly forged signature is handwritten and misspelled as “Antwan Clark.”

On December 20, 2023, the Office of the Attorney General of the State of New York (“OAG”) received a referral from the New York State Police pursuant to §63(3) of the New York State Executive Law, to investigate and prosecute person(s) who committed any crimes arising out of the investigation into the alleged theft of the property. On December 4, 2024, OAG brought the within Motion pursuant to RPAPL §756-a(1)(a), for an Order granting a stay of this proceeding.

Plaintiffs did not submit a responsive affirmation or affidavit to the within Motion. However, Plaintiffs, by counsel, have consented to a stay hereof (*see*, NYSCEF Doc. Nos. 204 and 215, p.6). Defendant U.S. Bank Trust National Association, not in its individual capacity, but solely as owner trustee for the RCAF Requisition Trust, as successor in interest to Wilmington Savings Fund Society, FSB, not in its individual capacity, but solely as Trustee for Residential Mortgage Aggregation Trust (“Defendant U.S. Bank”), by its attorney, submitted an affirmation in support of the within Motion.

Defendant Akinyinka Olateju (“Defendant Olateju”) did not submit a written response to the within Motion. However, Defendant Olateju, by counsel, at a Court conference relevant hereto, opposed the within Motion, contending that a stay should not be used as an attempt to delay discovery (*see*, NYSCEF Doc. No. 215). As more fully addressed below, Defendants Richard Steinberg, Sherry Steinberg, Jason Steinberg, New York Abstract & Agency, Inc., Jerrold W. Miles, Oscar Dias, Goldberg Properties LLC, and Rubinstein Estates LLC, consent to a stay.

DISCUSSION

Section (1)(a) of RPAPL 756-a provides:

“A federal, state, or local government agency may move for a stay of any proceeding to recover possession of or quiet title to real property relating to a residential dwelling unit or property, based on a pending good faith investigation into the theft or fraud in the title to, or the financing of, the premises that is the subject of any proceeding. Upon the agency’s showing of the pendency of a good faith investigation, the court shall issue a stay of the proceeding, including staying execution of a warrant of eviction or enforcement of a judgment so long as the

investigation is ongoing.”

Thus, pursuant to RPAPL §756-a(1)(a), the Court must issue a stay where a government agency, like the OAG here, has a good faith investigation into the theft of title of a property. Here, the OAG has shown a good faith criminal investigation into the deed theft of the property, and the forgery of the deed and other documents, *supra* (see generally, NYSCEF Doc. No. 201). Therefore, the elements of §756-a(1)(a) are satisfied such that a stay of this proceeding is required. The stay shall remain until further Order of this Court, with status conference(s) conducted hereafter pursuant to RPAPL §756-a(1)(b).

The Court now turns its attention to Attorney Donald Feerick’s response to OAG’s Motion (NYSCEF Doc. No. 216), and Attorney Michael Aspinall’s responsive letter (NYSCEF Doc. No. 218), in which he again endorses Mr. Feerick’s papers, this time with a non-affirmation, devoid of procedure. Notwithstanding, same has been read and considered.

Mr. Feerick, throughout his affirmation, consents to the stay, including in the wherefore clause thereof. The fact that Mr. Feerick inserts the word “partial” is inconsistent with his assertion of consent. To the extent that counsel’s purported opposition opines as to the facts of this matter, as presented by any party hereto, the Court notes that counsel also asserts that his clients “welcome a thorough investigation of all aspects of this case” by “the Attorney General or any other interested law enforcement agency to complete a criminal investigation of this matter.” (see, NYSCEF Doc. No. 216 ¶ 3). Contrary to assertions raised herein, a stay is not dispositive of the substance of this civil litigation – as it is neither summary judgment nor a trial; rather, it is a pause. Accordingly, the stay does not preclude any party from the currently anticipated further litigation of this matter. As to further gratuitous assertions, no criminal action is before this Court, and this Court will not exceed the appropriate bounds of this civil action.

Mr. Feerick further asserts that, “[His clients] have been deprived of the Court’s beneficial involvement in dispute resolution processes simply because a criminal investigation is pending. The absence of good faith in this matter is empowering Plaintiffs and unfairly depriving [his clients] of fair and equal treatment in this Court” (see, NYSCEF Doc. No. 216, ¶ 21).

This Court routinely conducts civil settlement conferences. Indeed, the Unified Court System strongly encourages alternative dispute resolution. However, it is a fundamental principal of justice that criminal and civil proceedings are not blended. Certainly, the Court has not in any way perceived that anyone, here, has suggested negotiating in the civil realm as to an outcome in the criminal sphere. Notwithstanding the foregoing, negotiating a civil outcome in the shadows of a related and inter-twinned criminal investigation is not something that this Court will entertain. Such execution of judicial discretion does not equate to “unfairly depriving [any party] of fair and equal treatment in this Court.” Argument to the contrary is misguided.

Counsel’s implication of “fair and unequal treatment in this Court” must also be addressed as to his

complaints regarding discovery. The notion that Defendants participated in court ordered discovery to their own peril is curious. First, all parties (all of whom are represented by counsel), by way of the Complaint, were put on notice of the allegation that Plaintiff Monique H. Clark's "signature" on the deed at issue was allegedly forged and notarized in New York while she was in the Dominican Republic. Moreover, contrary to Mr. Feerick's initial implication during the Court conference that he was unaware of the criminal investigation, he later conceded that he heard that Plaintiffs had complained to the District Attorney, State Police, and Rockland County (NYSCEF Doc. No. 215 pp. 26 & 27). Considering, at the very least, that all parties and counsel were on notice of the various claims asserted herein by Plaintiff(s), the argument that Defendants participated in court ordered discovery to their own peril is wholly without merit.

In light of the foregoing, it is hereby

ORDERED, that the Office of the Attorney General of the State of New York's Motion pursuant to RPAPL §756-a(1)(a), for a stay of this proceeding, is GRANTED; and it is further

ORDERED, that all parties and a representative of the Office of the Attorney General of the State of New York, are to appear for a status conference on July 9, 2025 at 9:15AM. Should the investigation conclude prior to said date, the Court shall be notified promptly, via letter.

The foregoing constitutes the Decision & Order of this Court.

Dated: New City, New York
January 29, 2025

E N T E R:



HON. DAVID FRIED, A.J.S.C.
STATE OF NEW YORK
COUNTY OF ROCKLAND