

Matter of Peters v Caton Towers Owners Corp.

2026 NY Slip Op 30116(U)

January 7, 2026

Supreme Court, Kings County

Docket Number: Index No. 511662/2023

Judge: Peter P. Sweeney

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS, PART 73

Index No.: 511662/2023
Motion Date: 10-20-252025
Mot. Seq. No.: 9, 10

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In the Matter of the Application of
JACQUELINE PETERS,

Petitioner,

For Judgment Pursuant to Article 78 of the Civil Practice
Law and Rules,

DECISION/ORDER

-against-

CATON TOWERS OWNERS CORP.,

Respondent.

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The following papers, which are e-filed with NYCEF as items 223-253, 255-260 , were read on these motions:

In Motion Sequence No. 009, Petitioner Jacqueline Peters seeks an Order: (1) enforcing the September 18, 2024 injunction by declaring the February 13, 2025 auction sale *void ab initio* for violating this Court's order requiring a compliant Notice of Sale as a condition precedent, including, but not limited to, the failure to provide the required 90-day advance notice under NY UCC § 9-611(f) and multiple material defects in the sale documentation ; and (2) restraining the disposal, transfer, or encumbrance of any interest in the cooperative shares or proprietary lease related to the premises. Although the Order to Show Cause as presented requested additional relief, the Court found that good cause was not demonstrated for such other relief.

In Motion Sequence No. 010, Petitioner seeks an Order: (1) voiding the eviction under RPAPL § 735(1) and § 749(2)(a) on the grounds that the eviction notice was not properly served under applicable law ; and (2) for reargument of this Court’s September 25, 2025 Order, which denied her request for a stay of eviction pending the determination of Motion Sequence No. 009.

Both applications are consolidated for disposition.

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BACKGROUND

Petitioner was a shareholder and proprietary lessee of Apartment 2R at Caton Towers Owners Corp.. On January 11, 2023, this Court issued a Decision/Order denying Petitioner's attempt to annul the Cooperative's (the "Co-op") termination of her proprietary lease, which was based on a finding of "objectionable conduct". Following the lease termination, the Co-op proceeded with a non-judicial foreclosure of the cooperative shares pursuant to the Uniform Commercial Code (UCC).

The auction sale took place on February 13, 2025, at which time the Petitioner was present. Notably, the Petitioner had previously attempted to stay the sale through an application to the Appellate Division, Second Department, which was denied. In the months following the sale, Petitioner sought stays of eviction in various forums, including Housing Court, the Appellate Term, and Federal District and Bankruptcy Courts, all of which were denied.

On July 30 and 31, 2025, the U.S. District Court for the Eastern District of New York denied Petitioner's motions for a temporary restraining order and reconsideration, finding she failed to show a likelihood of success on her Fair Housing Act claims.

Motion Sequence No. 009 was filed on September 18, 2025. This Court declined to sign the portions of the proposed order requesting a temporary restraining order or preliminary injunction regarding the eviction. Consequently, Petitioner was evicted on October 6, 2025. The remaining issues concern the validity of the February 2025 auction sale.

DISCUSSION

Petitioner contends the February 13, 2025 auction sale must be voided because: (1) the Co-op failed to provide the 90-day notice required by NY UCC § 9-611(f); (2) the Notice of Sale contained material defects, including an incorrect year (2024 instead of 2025) and misidentification of the parties' roles ; and (3) the Certificate and Memorandum of Sale contained errors regarding the zip code and the nature of the property.

Respondent Caton Towers Owners Corp. argues that UCC § 9-611(f) is inapplicable because the Co-op is not a "secured party" recouping a loan, but rather conducted the sale following a lease termination for objectionable conduct. Respondent further contends that the errors in the documentation were "minor errors" that were not "seriously misleading" under UCC § 9-613(3)(B), as Petitioner had actual notice and attended the sale.

Petitioner's argument that she was entitled to a 90-day notice of the auction is without merit. Pursuant to UCC § 9-611(f), the 90-day notice requirement applies only to "a secured party whose collateral consists of a residential cooperative interest used by the debtor and whose security interest in such collateral secures an obligation incurred in connection with financing or refinancing of the acquisition of such cooperative interest...". New York courts have confirmed this notice is required for lender foreclosures, which is not the case here (*see Newman v. Fed. Natl. Mtge. Assn.*, 2014 N.Y. Slip Op. 51844(U)). In the instant matter, the foreclosure was based on non-monetary defaults and the termination of the proprietary lease for objectionable conduct, not the recoupment of a loan.

Regarding the errors in the Notice of Sale, UCC § 9-613(3)(B) provides that "the contents of a notification... are sufficient, even if the notification includes... minor errors that are not seriously misleading". The typographical error stating "2024" instead of "2025" was not misleading given that the Notice was dated January 10, 2025. Petitioner was clearly not misled as she appeared at the sale and had sought to stay it months prior. Furthermore, inaccuracies in the Certificate and Memorandum of Sale—which are not recorded documents—do not justify voiding a sale that has already been completed.

Finally, with respect to Motion Sequence No. 010, the Petitioner has failed to demonstrate that this Court overlooked or misapprehended the law or facts in its September 25, 2025 Order. Moreover, the issues regarding the stay of eviction are now academic as the eviction has already been executed.

For the foregoing reasons, it is hereby:

ORDERED that both Motion Sequence No. 9 and Motion Sequence No. 10 are DENIED in their entirety.

This constitutes the decision and order of the Court.

Dated: January 7, 2026

PPS

PETER P. SWEENEY, J.S.C.

Note: This signature was generated electronically pursuant to Administrative Order 86/20 dated April 20, 2020

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