

<b>HSBC Bank USA, N.A. v Boyd</b>
2026 NY Slip Op 30217(U)
January 2, 2026
Supreme Court, Kings County
Docket Number: Index No. 511448/2024
Judge: Menachem M. Mirocznik
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At IAS Part FRP5 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse located at 360 Adams Street, Brooklyn, NY 11201, on the 2<sup>nd</sup> of January 2026

**PRESENT:** HON. MENACHEM M. MIROCZNIK  
JUSTICE OF THE SUPREME COURT

HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR LEHMAN MORTGAGE TRUST MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-7,

**Index No. 511448/2024**

Plaintiff,

-against-

JAMES BOYD; CONSTANCE BOYD; COMMISSIONER OF SOCIAL SERVICES OF THE CITY OF NEW YORK SOCIAL SERVICES DISTRICT; CRIMINAL COURT OF THE CITY OF NEW YORK; NEW YORK CITY BUREAU OF HIGHWAY OPERATIONS; NEW YORK CITY ENVIRONMENTAL CONTROL BOARD; "JOHN DOE #1" through "JOHN DOE #12," the last twelve names being fictitious and unknown to plaintiff, the persons or parties intended being the tenants, occupants, persons or corporations, if any, having or claiming an interest in or lien upon the Subject Property described in the Complaint,

**Decision and Order  
(Motion Seq. 1)**

Defendants.

<b>Papers</b>	<b>Numbered</b>
Notice of Motion	NYSCEF Doc. 39-48
Opposition Papers	NYSCEF Doc. 51-56
Reply Papers	NYSCEF Doc. 57-58

Upon the foregoing papers, the motion is determined in accordance with this Decision and Order as follows:

**Procedural History**

This action was commenced on April 22, 2024 7, seeking to foreclose a mortgage (the "mortgage") executed by defendants James Boyd ("James") and Constance Boyd ("Constance") encumbering the property known as 778 Greene Avenue Brooklyn, New York 11221 (the "property").

On March 10, 1990 (the “1990 Deed”), the Property was conveyed to defendant Constance, Kayreatha Boyd (“Kayreatha”), and Sadie Boyd (“Sadie”) as tenants in common.

On or about December 31, 1990 Sadie died.

On December 15, 2003 (the “2003 Deed”), the property was conveyed by Constance and Kayreatha to defendant Constance and defendant James.

On September 14, 2006, defendant James and defendant Constance allegedly executed the subject mortgage.

On June 3, 2024, defendant Constance joined issue asserting various affirmative defenses including that defendant Constance never executed the loan documents and that decedent Sadie owned 1/3 of the property, never executed the loan documents and in the absence of the heirs of Sadie, plaintiff’s action to foreclosure the mortgage fails.

On June 12, 2024, defendant James joined issue with the filing of an answer asserting various affirmative defenses and a counterclaim for attorneys fees.

Plaintiff now moves pursuant to CPLR 3025[b] to amend the complaint and join Loquinne Boyd and James Boyd (not defendant James), the alleged heirs of Sadie as additional necessary parties and to add causes of action for declaration that plaintiff mortgage encumbers the entire property, the Sadie has no interest in the property was sadi interest was extinguished by adverse possession and reformation of the 1990 Deed to defendant Constance, Kayreatha, and Sadie was as joint tenants with right of survivorship. Plaintiff argues that leave to amend should be freely granted and only recently discovered previously undisclosed potential cloud on title arising from a 1990 deed that named Sadie as a one-third owner; plaintiff contends Sadie’s heirs are necessary parties under RPAPL §§ 1311 and 1515 to extinguish all interests and vest marketable title, that the amendment is timely, non-prejudicial, and procedurally proper via a supplemental summons, and that the new claims are meritorious based on the deed history, decades of exclusive possession by the mortgagors, principles of survivorship/adverse possession, and the need to reform the 1990 deed to reflect the parties’ true intent.

Defendant James opposes the motion arguing that the motion to amend must be denied because plaintiff’s inexcusable delay—spanning decades, multiple prior foreclosure actions, and four loan modifications—constitutes laches and causes substantial prejudice by transforming a straightforward foreclosure into complex, fact-intensive title litigation; defendant further argues that the proposed new claims are palpably insufficient and patently devoid of merit because the claims are time-barred and plaintiff lacks standing to assert the claims and the quiet-title/adverse-possession theory misapplies RPAPL § 541 and controlling case law by failing to allege ouster or the required statutory period, rendering the amendment futile as a matter of law.

In reply, plaintiff argues that defendant has failed to demonstrate legally cognizable prejudice or surprise, emphasizing that the case remains in its early stages, discovery has not commenced, and the amendment is compelled by RPAPL § 1311 to join necessary parties whose interests appear on the face of the record; plaintiff asserts the proposed quiet-title and reformation

claims are not palpably insufficient because they are supported by longstanding authority, the deed history, and decades of exclusive possession, and that defendant's arguments improperly demand proof on the merits rather than applying the liberal amendment standard, while also noting that any title infirmity burdens defendant equally and that the foreclosure claims against him proceed regardless of the amendment's outcome.

### Discussion

"Applications for leave to amend pleadings under CPLR 3025(b) should be freely granted unless the proposed amendment would unfairly prejudice or surprise the opposing party, or is palpably insufficient or patently devoid of merit...A court must not examine the legal sufficiency or merits of a pleading unless such insufficiency or lack of merit is clear and free from doubt." *TD Bank, N.A. v Keenan*, 221 AD3d 1040 [2d Dept 2023][citations omitted]; See also *Fahey v Ontario County*, 44 NY2d 934, 935 [1978][“Leave to amend the pleadings “shall be freely given” absent prejudice or surprise resulting directly from the delay...Since the respondents cannot claim here such prejudice or surprise, the court below abused its discretion as a matter of law in denying appellant's motion to amend.”][citations omitted]

"Although leave to amend should be freely given in the absence of prejudice or surprise to the opposing party, the motion should be denied where the proposed amendment is palpably insufficient or patently devoid of merit." *Great Homes Group, LLC v GMAC Mtge., LLC*, 180 AD3d 1013 [2d Dept 2020]; *Derago v Ko*, 189 AD3d 1352 [2d Dept 2020][“While [n]o evidentiary showing of merit is required under CPLR 3025 (b), the court must still determine whether the proposed amendment is palpably insufficient to state a cause of action or defense, or is patently devoid of merit.”][internal quotation marks omitted]

"However, there is no sound basis in law to grant amendment...to add an untimely claim." *34-06 73, LLC v Seneca Ins. Co.*, 39 NY3d 44, 50 [2022]; See also *Kurtish v Goldberg*, 253 AD2d 740 [2d Dept 1998][“We further find that the Supreme Court improperly granted the plaintiff's cross motion for leave to amend the complaint...inasmuch as the cause of action for reformation of the deed based upon the alleged fraud is governed by the same period of limitation.”]

Here, plaintiff proposed amendment is palpably insufficient and patently devoid of merit and therefore it's motion to amend the complaint is denied.

First, defendant is correct that the cause of action seeking reformation of the 1990 Deed is time barred.

"A cause of action seeking reformation of an instrument on the ground of mistake ... is governed by the six-year statute of limitations pursuant to CPLR 213(6), which begins to run on the date the mistake was made." *Bank of New York Mellon v MS Glob. Group, LLC*, 222 AD3d 821 [2d Dept 2023]

Here, the cause of action accrued when the 1990 Deed was executed and the statute of limitations expired in 1998 long before commencement of this action.

Second, defendant is also correct plaintiff lacks standing to assert the claims for adverse

possession and is not a party to the 1990 Deed.

“A party generally has standing only to assert claims on behalf of himself or herself...Although there are situations in which representative standing is permitted...one does not, as a general rule, have standing to assert claims on behalf of another” *Cardo v Bd. of Managers, Jefferson Vil. Condo 3*, 67 AD3d 945 [2d Dept 2009] [internal citations and quotation marks omitted] citing *Caprer v. Nussbaum*, 36 AD3d 176, 182 [2d Dept 2006]

Here, plaintiff is ostensibly attempting to assert an adverse possession claim on behalf of defendants and therefore lacks standing to assert same. Plaintiff is not in possession of the property, has no claim to fee ownership and is not a party to the 1990 Deed. Plaintiff’s interest is at best that of lienor. Plaintiff cites to no authority for the notion that one can assert an adverse possession claim without being the party in possession of the property. Therefore, plaintiff claim for adverse possession fails as a matter of law.

Lastly, plaintiff’s mortgage was not executed by Sadie or her heirs and therefore plaintiff does not have a cause of action to foreclose their interests in the property.

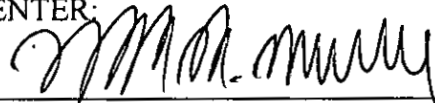
The parties remaining contentions need not be reached in light of the Court’s determinations.

Accordingly, it is hereby,

**ORDERED**, that the plaintiff’s motion to amend the complaint is DENIED.

This constitutes the decision and order of the Court.

ENTER:



Hon. Menachem M. Mirocznik, JSC

KINGS COUNTY CLERK'S OFFICE

JAN 15 2026

FILED