

Centre St. Lender LLC v 224 Ctr. Realty LLC
2026 NY Slip Op 30526(U)
February 6, 2026
Supreme Court, New York County
Docket Number: Index No. 850252/2025
Judge: Francis A. Kahn III
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. FRANCIS A. KAHN, III PART 32

Justice

X

INDEX NO. 850252/2025

CENTRE STREET LENDER LLC,

MOTION DATE

Plaintiff,

MOTION SEQ. NO. 006

- v -

224 CENTRE REALTY LLC, 51 GREAT NECK PLAZA LLC, BIJAN NASSI, NEW YORK CITY DEPARTMENT OF FINANCE, NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, WORKERS COMPENSATION BOARD OF NEW YORK, CRIMINAL COURT OF THE CITY OF NEW YORK, TOPLINE NYC CONTRACTING INC., JOHN DOE DEFENDANTS NOS. 1-25,

DECISION + ORDER ON MOTION

Defendants.

X

The following e-filed documents, listed by NYSCEF document number (Motion 006) 78, 79, 80, 81, 82, 83, 84, 85, 86, 89, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 113

were read on this motion to/for

SUMMARY JUDGMENT(AFTER JOINDER)

Upon the foregoing documents, Plaintiff's motion is determined as follows:

This is an action to foreclose on a mortgage, mortgage modification, consolidation and extension agreement and spreader agreement ("CEMA") encumbering two parcels of real property located at 224 Centre Street and New York, New York and 51 Middle Neck Road, Great Neck, New York. This action seeks to foreclose on the 224 Centre Street property only. The mortgage, dated September 13, 2018, was given by Defendants 224 Centre Realty LLC, ("Centre Realty") and 51 Great Neck Plaza LLC ("Great Neck Plaza") to non-party Safra National Bank of New York ("Safra") to secure an indebtedness with an original principal amount of \$11,400,000.00, memorialized by a consolidated amended and restated mortgage note, also dated September 13, 2018. The CEMA consolidated eight prior mortgages on the Centre Street property, and two prior mortgages as to the Middle Neck Road property. The note and mortgage were executed by Defendant Bijan Nassi ("Nassi") as the sole member of both Centre Realty and Great Neck Plaza. Concomitantly with these documents, Nassi also executed an indemnity and guaranty agreement.

Plaintiff commenced this action and pled in its complaint, inter alia, that Defendants Centre Realty and Great Neck Plaza defaulted in that they failed to pay taxes, failed to cure violations and complaints on the subject property, failed to discharge a mechanic's lien, failed to provide quarterly and annual financial statements and permitted the operating account to fall below the minimum required balance. Defendants Centre Realty, Great Neck Plaza and Nassi answered and pled 19 affirmative defenses, including lack of standing.

Now, Plaintiff moves for summary judgment against Defendants Centre Realty, Great Neck Plaza and Nassi, to strike the answering Defendants' affirmative defenses, for default judgment against the non-answering Defendants and to appoint a referee to compute the amount due and compel the receiver to pay contract interest since October 2025. Defendants Centre Realty, Great Neck Plaza and Nassi oppose the motion.

In moving for summary judgment, a plaintiff is required to establish *prima facie* entitlement to judgment as a matter of law through proof of the mortgage, the note, and evidence of Defendants' default in repayment (*see eg U.S. Bank, N.A. v James*, 180 AD3d 594 [1st Dept 2020]; *Bank of NY v Knowles*, 151 AD3d 596 [1st Dept 2017]; *Fortress Credit Corp. v Hudson Yards, LLC*, 78 AD3d 577 [1st Dept 2010]). Based upon Defendants' affirmative defenses, Plaintiff was also required to demonstrate it had standing when this action was commenced (*see eg Wells Fargo Bank, N.A. v Tricario*, 180 AD3d 848 [2d Dept 2020]). Proof supporting a *prima facie* case on a motion for summary judgment must be in admissible form (*see CPLR §3212[b]*; *Tri-State Loan Acquisitions III, LLC v Litkowski*, 172 AD3d 780 [1st Dept 2019]). A plaintiff may rely on evidence from persons with personal knowledge of the facts, documents in admissible form and/or persons with knowledge derived from produced admissible records (*see eg U.S. Bank N.A. v Moulton*, 179 AD3d 734, 738 [2d Dept 2020]). No specific business records must be proffered, provided the admissibility requirements of CPLR 4518[a] are fulfilled and the records evince the facts for which they are relied upon (*see eg Citigroup v Kopelowitz*, 147 AD3d 1014, 1015 [2d Dept 2017]).

Plaintiff's motion was supported by an affirmation from Elliot Sasson ("Sasson"), an Authorized Signatory for Plaintiff. Sasson avers that their affirmation is based on personal knowledge of Centre Street Lender's record-keeping and servicing of mortgage loans and upon a review of Plaintiff's records. The Sasson Affirmation laid a proper foundation for the admission Plaintiff's records into evidence under CPLR §4518 by sufficiently showing that the records "reflect[ed] a routine, regularly conducted business activity, and that it be needed and relied on in the performance of functions of the business", "that the record[s][were] made pursuant to established procedures for the routine, habitual, systematic making of such a record" and "that the record[s] [were] made at or about the time of the event being recorded" (*Bank of N.Y. Mellon v Gordon*, 171 AD3d 197, 204 [2d Dept 2019]; *see also Bank of Am v Brannon*, 156 AD3d 1 [1st Dept 2017]). The records of other entities were also admissible since Sasson established that those records were received from the makers and incorporated into the records Plaintiff kept and that it routinely relied upon such documents in its business (*see eg U.S. Bank N.A. v Kropp-Somoza*, 191 AD3d 918 [2d Dept 2021]). Further, the records referenced by Sasson were annexed to the moving papers (*cf. Deutsche Bank Natl. Trust Co. v Kirschenbaum*, 187 AD3d 569 [1st Dept 2020]).

Proof of the loan documents, including the note and mortgage, was established in the first instance through the affirmation of Sasson and the annexed documents (*cf. 938 St. Nicholas Ave. Lender LLC v 936-938 Cliffcrest Hous. Dev. Fund Corp.*, 218 AD3d 417 [1st Dept 2023]). A defendant's default, "is established by (1) an admission made in response to a notice to admit, (2) an affidavit from a person having personal knowledge of the facts, or (3) other evidence in admissible form" (*Deutsche Bank Natl. Trust Co. v McGann*, 183 AD3d 700, 702 [2d Dept 2020]). Similarly, *prima facie* proof of the above non-monetary defaults was also proffered (*see generally Jeffrey Towers, Inc. v Straus*, 31 AD2d 319, 323 [2d Dept 1969], *affd* 26 NY2d 812 [1970]). Per the mortgage, Defendants are responsible for paying real estate taxes assessed on the property during the term the loan and supplying Plaintiff with proof of same (Mortgage §1.09). Failure to comply with these provisions is an event of default (Mortgage §4.01). It is established that failure to pay real estate taxes, especially over a protracted period, is not a trivial event. "Quite simply, the mortgage will be jeopardized if taxes are

neglected” (1 Bergman on New York Mortgage Foreclosures §4.14[1][a][2024]). The proffered evidence demonstrated real estate taxes went unpaid for four years, that a default/cure notice was served and that the unpaid taxes continue to subsist. “[T]he failure to pay real estate taxes as required by the terms of the note and mortgage constituted a default event under the note and mortgage and entitled the plaintiff to foreclose on the mortgaged property” (*ARS Invs. II 2012-1 HVB, LLC v Trilogy, LLC*, 160 AD3d 918, 919 [2d Dept 2018]).

As to standing in a foreclosure action, it is established in one of three ways: [1] direct privity between mortgagor and mortgagee, [2] holder status via physical possession of the note prior to commencement of the action that contains an indorsement in blank or bears a special indorsement payable to the order of the plaintiff either on its face or by allonge, and [3] written assignment of the note to the plaintiff prior to commencement of the action (*see eg Wells Fargo Bank, N.A. v Tricario*, 180 AD3d 848 [2d Dept 2020]; *Wells Fargo Bank, NA v Ostiguy*, 127 AD3d 1375 [3d Dept 2015]). In this case, it is undisputed that Plaintiff was not the original lender, and it submitted no proof of its status as a physical holder of an endorsed note. Instead, to demonstrate its standing when the action was commenced, Plaintiff relies on a written assignment. While often a nullity in this context (*see eg U.S. Bank N.A. v Dellarmo*, 94 AD3d 746, 748 [2d Dept 2012]), a mortgage assignment that includes transfer of the note, or similar language (eg. loan, indebtedness, the moneys due and owing, etc.), which can be sufficient to transmit the note (*see eg Broome Lender LLC v Empire Broome LLC*, 220 AD3d 611 [1st Dept 2023]; *Chase Home Fin., LLC v Miciotta*, 101 AD3d 1307 [3d Dept 2012]; *GRP Loan, LLC v Taylor*, supra). Here, the omnibus assignment submitted shows that Safra assigned its rights, title and interest under both the consolidated amended and restated mortgage note and the CEMA to Plaintiff, as of May 15, 2025.

In opposition, Defendants’ claim that Plaintiff failed to demonstrate all the elements of a cause of action for foreclosure is without merit. The affidavit and proffered business documents were all in admissible form. Indeed, as the validity of the loan documents and Defendants’ failure to pay real estate taxes were not contradicted by any of the appearing defendants, they are “deemed to be admitted” (*Bank of Am NA v Brannon*, 156 AD3d, 1, 6 [1st Dept 2017]). Regarding the default, Defendants do not submit any evidence that they paid the taxes, that the financial statements were forwarded to Plaintiff’s assignor, or the liens were vacated. Defendants’ reliance on a letter from Safra, dated December 18, 2023, does not raise an issue of fact. Although Safra deferred finding Defendants in default at that time, the correspondence expressly states it “does not and shall not constitute a waiver or modification of the obligations of Borrower under the Loan Documents”. Contrary to Defendants’ assertion, Safra’s deferral demonstrates Plaintiff “was not unreasonably insistent on prompt payment of the defaulted sums” (*Neubauer v Smith*, 40 AD2d 790 [1st Dept 1972]). As such, no issue of fact exists that Plaintiff’s acceleration of the indebtedness based on the tax default was inequitable or unconscionable (*L & L Assoc. Holding Corp. v Seventh Day Church of God of the Apostolic Faith*, 188 AD3d 1180 [2d Dept 2020]; *Neubauer v Smith*, supra; *Jamaica Sav. Bank v Cohan*, 36 AD2d 743 [2d Dept 1971]).

Assuming, that the defense of unclean hands is applicable to a mortgage foreclosure action (*see Phh Mtge. Corp. v Davis*, 111 AD3d 1110, 1112 [3d Dept 2013]), that doctrine “is used only to bar the grant of equitable relief to a party who is ‘guilty of immoral, unconscionable conduct and even then only when the conduct relied on is directly related to the subject matter in litigation and the party seeking to invoke the doctrine was injured by such conduct’” (*Wells Fargo Bank v Hodge*, 92 AD3d 775 [2d Dept 2012]). The purported failure of Plaintiff, as well as its servicers and assignees, to provide a viable payoff amount, even if true, does not constitute conduct to support such a defense (*see Wells Fargo Bank, N.A. v Dara*, 180 AD3d 844 [2d Dept 2020]).

Regarding Defendants' right to redeem, they do not cite, and the Court could not find, any contractual provision requiring Plaintiff to issue a payoff letter prior to commencing foreclosure proceedings. It appears, though, a borrower is entitled to payoff figures from a lender as an adjunct of the common-law right to redeem (*see Luna Light., Inc. v Just Indus., Inc.*, 45 AD3d 814, 816 [2d Dept 2007])["[Borrower] is entitled to redeem the subject real property, and is entitled to a calculation of the redemption price"]; *see also* 1 Bergman on New York Mortgage Foreclosures §4.07 [2023]). Nevertheless, Defendants failed to explain how such a failure, if true, excuses their default based upon non-payment of real estate taxes for four years.

The assertion the motion must be denied because no discovery has been conducted is unavailing as Defendants offered nothing to demonstrate Plaintiff is in exclusive possession of facts which would support a viable defense to summary judgment (*see Island Fed. Credit Union v I&D Hacking Corp.*, 194 AD3d 482 [1st Dept 2021]).

All the affirmative defenses are entirely conclusory and unsupported by any facts in the answer or by the papers submitted in opposition. As such, these affirmative defenses are nothing more than an unsubstantiated legal conclusion which is insufficiently pled as a matter of law (*see Board of Mgrs. of Ruppert Yorkville Towers Condominium v Hayden*, 169 AD3d 569 [1st Dept 2019]; *see also Bosco Credit V Trust Series 2012-1 v Johnson*, 177 AD3d 561 [1st Dept 2020]; *170 W. Vil. Assoc. v G & E Realty, Inc.*, 56 AD3d 372 [1st Dept 2008]; *see also Becher v Feller*, 64 AD3d 672 [2d Dept 2009]; *Cohen Fashion Opt., Inc. v V & M Opt., Inc.*, 51 AD3d 619 [2d Dept 2008]). Further, in opposition, Defendant only addresses the affirmative defenses sounding in lack of standing, right of redemption and fraud/unclean hands. Thus, to the extent that no specific legal argument was proffered in support of the remaining affirmative defense, they are abandoned (*see U.S. Bank N.A. v Gonzalez*, 172 AD3d 1273, 1275 [2d Dept 2019]; *Flagstar Bank v Bellafigiore*, 94 AD3d 1044 [2d Dept 2012]; *Wells Fargo Bank Minnesota, N.A v Perez*, 41 AD3d 590 [2d Dept 2007]).

The branch of Plaintiff's motion for a default judgment against the non-appearing parties is granted (*see CPLR §3215; SRMOF II 2012-I Trust v Tella*, 139 AD3d 599, 600 [1st Dept 2016]).

The branch of Plaintiff's motion to amend the caption is granted (*see generally CPLR §3025; JP Morgan Chase Bank, N.A. v Laszio*, 169 AD3d 885, 887 [2d Dept 2019]).

Accordingly, it is

ORDERED that Plaintiff's motion for summary judgment against the appearing parties and for a default judgment against the non-appearing parties is granted; and it is further

ORDERED that the affirmative defenses pled by all the appearing Defendants are dismissed; and it is further

ORDERED that **Clark Whitsett, Esq., 66-05 Woodhaven Blvd., Rego Park, New York 11374 – 718-850-0003** is hereby appointed Referee in accordance with RPAPL § 1321 to compute the amount due to Plaintiff and to examine whether the property identified in the notice of pendency can be sold in parcels; and it is further

ORDERED that in the discretion of the Referee, a hearing may be held, and testimony taken; and it is further

ORDERED that by accepting this appointment the Referee certifies that he is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to §36.2 (c) (“Disqualifications from appointment”), and §36.2 (d) (“Limitations on appointments based upon compensation”), and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

ORDERED that, pursuant to CPLR 8003(a), and in the discretion of the court, a fee of \$350 shall be paid to the Referee for the computation of the amount due and upon the filing of his report and the Referee shall not request or accept additional compensation for the computation unless it has been fixed by the court in accordance with CPLR 8003(b); and it is further

ORDERED that the Referee is prohibited from accepting or retaining any funds for himself or paying funds to himself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED that if the Referee holds a hearing, the Referee may seek additional compensation at the Referee’s usual and customary hourly rate; and it is further

ORDERED that Plaintiff shall forward all necessary documents to the Referee and to Defendants who have appeared in this case within 30 days of the date of this order and shall promptly respond to every inquiry made by the referee (promptly means within two business days); and it is further

ORDERED that if Defendant(s) have objections, they must submit them to the referee within 14 days of the mailing of plaintiff’s submissions; and include these objections to the Court if opposing the motion for a judgment of foreclosure and sale; and it is further

ORDERED that failure to submit objections to the referee may be deemed a waiver of objections before the Court on an application for a judgment of foreclosure and sale; and it is further

ORDERED that the mortgage and any necessary loan documents related to such Mortgage be, and the same hereby are, reformed by substituting therein the intended Legal Description of the mortgaged premises, which is the correct description, in place of the mortgage premises description which is erroneous (a copy of the Intended Mortgaged premises is attached); and it is further

ORDERED, that the caption of this action be amended by striking therefrom the remaining Defendants sued herein as “John Doe #1” to “John Doe #25,” all without prejudice to the proceedings heretofore had herein; and it is further

ORDERED the caption is amended as follows:

SUPREME COURT STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
CENTRE STREET LENDER LLC,

Plaintiff,

-against-

224 CENTRE REALTY LLC, 51 GREAT NECK PLAZA LLC, BIJAN NASSI, NEW YORK CITY DEPARTMENT OF FINANCE, NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, WORKERS COMPENSATION BOARD OF NEW YORK, CRIMINAL COURT OF THE CITY OF NEW YORK, and TOPLINE NYC CONTRACTING INC.,

Defendants.

-----X

and it is further,

ORDERED that Plaintiff must bring a motion for a judgment of foreclosure and sale within 45 days of receipt of the referee's report; and it is further

ORDERED that if Plaintiff fails to meet these deadlines, then the Court may sua sponte vacate this order and direct Plaintiff to move again for an order of reference and the Court may sua sponte toll interest depending on whether the delays are due to Plaintiff's failure to move this litigation forward; and it further

ORDERED that counsel for Plaintiff shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the General Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the parties being removed pursuant hereto; and it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made 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 at the address (www.nycourts.gov/supctmanh)]; and it is further

ORDERED that Plaintiff shall serve a copy of this Order with notice of entry on all parties and persons entitled to notice, including the Referee appointed herein.

All parties are to appear for a virtual conference via Microsoft Teams on June 17, 2025, at 10:20 a.m. If a motion for judgment of foreclosure and sale has been filed Plaintiff may contact the Part Clerk (SFC-Part32-Clerk@nycourts.gov) in writing to request that the conference be cancelled. If a motion has not been made, then a conference is required to explore the reasons for the delay.

2/6/2026

DATE

CHECK ONE:

Case disposition checkboxes: [] CASE DISPOSED, [X] GRANTED, [] SETTLE ORDER, [] INCLUDES TRANSFER/REASSIGN

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

[] DENIED

DENIED

Application checkboxes: [X] NON-FINAL DISPOSITION, [] GRANTED IN PART, [] SUBMIT ORDER, [X] FIDUCIARY APPOINTMENT

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

[] OTHER

OTHER

[] REFERENCE

REFERENCE

Signature of Francis A. Kahn III and stamp: FRANCIS A. KAHN III HON. FRANCIS A. KAHN III J.S.C.