

**NTCTL 2019-A Trust & the Bank of N.Y. Mellon v
Gaylevault Fin. Servs. Co.**

2026 NY Slip Op 31564(U)

March 30, 2026

Supreme Court, Kings County

Docket Number: Index No. 517149/2020

Judge: Derefim B. Neckles

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This opinion is uncorrected and not selected for official publication.

KINGS COUNTY CLERK
FILED
2026 APR -8 A 9:14

At an IAS Term, Part FRP-2, of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 30th day of March 2026.

P R E S E N T:

HON. DEREKIM B. NECKLES,
J.S.C.

Index No.: 517149/2020

NYCTL 2019-A TRUST AND THE BANK OF NEW YORK MELLON AS COLLATERAL AGENT AND CUSTODIAN FOR THE NYCTL 2019-A TRUST,

x

Plaintiff,

DECISION AND ORDER

-against-

GAYLEVAULT FINANCIAL SERVICES COMPANY, THE CITY OF NEW YORK - DEPARTMENT OF FINANCE, THE STATE OF NEW YORK - DEPARTMENT OF TAXATION AND FINANCE, ET AL,

Defendant,

The following e-filed papers read herein:

x

NYSCEF Doc Nos.

Notice of Motion/Affidavits (Affirmations) Annexed	<u>172-183</u>
Opposition to Motion	<u>189</u>
Notice of Cross-motion/Affidavits (Affirmations) Annexed	<u>200-203</u>
Opposition to Cross-motion	<u>216-219</u>
Reply	<u>220</u>

Upon the foregoing papers in this action to foreclose on a tax lien encumbering the subject property at 855 Prospect Place in Brooklyn, defendant Gaylevault Financial Services Company ("defendant") moves (under mot. seq. 8) for an order (1) pursuant to RPAPL§ 231(6) or in the interest of justice, setting aside the judicial sale of the subject property; and (2) pursuant to CPLR§ 5015(1), CPLR§ 317, or the interest of justice,

vacating the judgment and either dismissing the action or permitting defendant Gaylevault Financial Services Company to interpose an answer.

Proposed intervenor Prospect Place Plaza 26 Corp. (“Prospect”) cross-moves (under mot. seq. 9) seeking leave to intervene in the instant action as of right pursuant to CPLR 1012(a)(2) and (3).

Background

Plaintiff commenced the instant action on September 14, 2020 upon the filing of the summons and complaint seeking to foreclose on a tax lien certificate dated October 24, 2019. An order of reference was granted on April 25, 2022 and judgment of foreclosure and sale was granted on December 7, 2022. Pursuant to the judgement, the appointed referee delivered to Prospect a deed of conveyance to the subject property. On July 1, 2024 this court denied defendant’s order to show cause seeking to vacate the judgment finding that, among other things, RPAPL § 231(6), CPLR§ 5015(1), and CPLR§ 317 are inapplicable. By order dated October 8, 2024, plaintiff’s motion confirming the referee’s report of sale and appointing a referee in a surplus money proceeding was granted.

In support of defendant’s instant motion, defendant maintains that the sale should be vacated because defendant received a credit that covered the tax lien and made an additional payment of \$3,524.65 toward the 2019 property tax.

In opposition to defendant’s motion, plaintiff argues that defendant has already moved four times to vacate the foreclosure sale. Plaintiff contends that as was previously decided by this court, RPAPL 231(6) is unavailable. Additionally, plaintiff maintains that

relief under CPLR 5015(a)(1) is time barred as that provision requires a motion to be made within one year of service of notice of entry of the judgment. Further, plaintiff asserts that CPLR 317 does not apply to an action to foreclose a New York City Tax Lien. Finally, plaintiff explains that the credit defendant refers to was applied to the amount then due.

In support of the cross-motion, Prospect argues that because Prospect is the current owner of the property and would be bound by any decision this court renders, it should be granted leave to intervene as of right pursuant to CPLR 1012(a).

In opposition to Prospect's cross-motion, defendant contends that it will be prejudiced if this court grants Prospect's cross-motion to intervene after paying the City the entire debt owed on the property post sale to redeem the property.

Discussion

I. Law of the Case

The doctrine of the law of the case operates to foreclose re-examination of the issue absent a showing of subsequent evidence or change of law (see *Pascual v. Rustic Woods Homeowners Assn., Inc.*, 173 A.D.3d at 757, 99 N.Y.S.3d 710; *Matter of Norton v. Town of Islip*, 167 A.D.3d at 626, 90 N.Y.S.3d 59). Here, defendant requests the same relief as this court previously decided upon by decision dated July 1, 2024. In the aforementioned decision, this court denied defendant the relief premised on RPAPL § 231(6), CPLR§ 5015(1), and CPLR§ 317. As defendant made no showing of subsequent evidence or change of law that would warrant reconsideration of the issue, defendant is barred by the doctrine of law of the case.

II. Intervention

CPLR 1012 provides that “[u]pon timely motion, any person shall be permitted to intervene in any action ... when the representation of the person's interest by the parties is or may be inadequate and the person is or may be bound by the judgment” (id. § 1012[a][2]) or “when the action involves ... the title ... to[] property and the person may be affected adversely by the judgment” (id. § 1012[a][3]). Here, Prospect as successful bidder at the auction sale, has established it has an interest in the property that would warrant intervention in this proceeding. However, in light of the fact that defendant’s order to show cause is denied, Prospect’s cross-motion is deemed moot.

Accordingly, it is

ORDERED that defendant Gaylevault Financial Services Company’s motion (mot. seq. 8) is denied in all respects, and it is further

ORDERED that Prospect Place Plaza 26 Corp.’s motion (mot. seq. 9) to intervene is denied as moot.

This constitutes the decision and order of the Court.

ENTER:



HON. DEREKIM B. NECKLES
J. S. C.

2026 APR - 8 A 9:15
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