

Abreu v Ahmad

2026 NY Slip Op 31980(U)

May 7, 2026

Supreme Court, Kings County

Docket Number: Index No. 507118/2026

Judge: Reginald A. Boddie

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At an IAS Commercial Part 12 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, Borough of Brooklyn, City and State of New York on the 7th day of May 2026.

P R E S E N T:

Honorable Reginald A. Boddie
Justice, Supreme Court

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FRANKLIN ABREU and GGJ&G FOOD CORP.,

Plaintiffs,

Index No. 507118/2026

-against-

Cal. No. 1 MS 1

RAMZEY AHMAD, AHMAD ASSOCIATES, LLC,
800 ROCKAWAY HOUSING DEVELOPMENT
FUND CORPORATION, THE DOE FUND, INC.,
C.T. STORES, INC., and KRASDALE FOODS, INC.,

Decision and Order

Defendants.

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The following e-filed papers read herein:

NYSCEF Doc Nos.

MS 1

11-26, 36-37

Defendants Ramzey Ahmad (“Ramzey”) and Ahmad Associates, LLC’s (“Ahmad Associates”) motion to dismiss the complaint as against them and, alternatively, to cancel the notice of pendency is decided as follows:

Background

This action arises out of an alleged fraudulent commercial lease scheme concerning the premises located at 800 Rockaway Avenue, Brooklyn, New York. Plaintiff Franklin Abreu (“Abreu”), through plaintiff GGJ&G Food Corp. (“GGJ&G”), allegedly sought to operate a grocery store at the premises and negotiated with defendant Ramzey, who allegedly represented

that he owned the premises through defendant Ahmad Associates. Plaintiffs allege that GGJ&G entered into a February 2, 2023 lease with Ahmad Associates (“Lease 1”), which did not contain any demolition clause, and that the value of Lease 1 to GGJ&G was its approximately 25-year term of uninterrupted quiet enjoyment of the premises.

Plaintiffs further allege that, in connection with GGJ&G’s grocery business, defendant C.T. Stores, Inc. was to supply products to GGJ&G. Plaintiffs allege that C.T. Stores, Inc. is a subsidiary of defendant Krasdale Foods, Inc. (“Krasdale”), a major food and product supplier to grocery stores in and around Brooklyn, New York, and that Krasdale extended credit to GGJ&G. To secure that credit, Krasdale allegedly required assignment-related protections, including the right to assume or protect its interest in the lease if GGJ&G defaulted. Plaintiffs allege that Lease 1 was then modified by written agreement to incorporate those Krasdale-related assignment protections (“Amended Lease 1”), but that Ramzey and Ahmad Associates later refused to permit assignment to Krasdale and instead relied on a purported March 21, 2023 lease containing a demolition clause (“Lease 2”), which plaintiffs contend was altered or forged without Abreu’s knowledge or consent.

Furthermore, plaintiffs allege that they later discovered that Ramzey and Ahmad Associates did not own the premises or have the ownership authority they allegedly represented during lease negotiations, that defendant 800 Rockaway Housing Development Fund Corporation held legal title to the premises after a 2022 transfer, that beneficial interests were assigned to 800 Rockaway Apartments LLC, and that 800 Rockaway Housing Development Fund Corporation and 800 Rockaway Apartments LLC were allegedly shell entities formed and controlled by defendant The Doe Fund, Inc. Plaintiffs assert that Ramzey, Ahmad Associates, 800 Rockaway Housing Development Fund Corporation, and The Doe Fund, Inc. concealed the true ownership and

leasehold structure of the premises and used Lease 2 to defeat plaintiffs' and Krasdale's claimed rights under Amended Lease 1.

Plaintiffs identify four actions involving material facts relevant to the instant dispute between the parties. Ahmad Associates commenced two actions against GGJ&G and Abreu: one in Richmond County Supreme Court, filed on September 11, 2025, which plaintiffs allege has since been withdrawn, and one in Kings County Supreme Court, filed on September 12, 2025, Index No. 531685/2025, pending before Hon. Cenceria Edwards, in which joinder of issue was allegedly pending. Plaintiffs also identify a Kings County Civil Court proceeding filed on January 28, 2026, by 800 Rockaway Apartments LLC, c/o The Doe Fund, against Ahmad d/b/a Ahmad Associates LLC, and a Suffolk County Supreme Court action filed the same day by Krasdale against GGJ&G, Abreu, and Abreu's wife.

Defendants Ramzey and Ahmad Associates now move pursuant to CPLR 3211(a)(1) and (7) to dismiss the complaint as against them, and, alternatively, to cancel the notice of pendency pursuant to CPLR 6514. Defendants argue that plaintiffs knowingly executed the superseding March 2023 Lease 2 containing a demolition clause, failed to pay full rent, lack standing to enforce Krasdale's rights under the collateral assignment agreement Amended Lease 1, and cannot maintain their claims. Defendants further argue that the notice of pendency should be cancelled because the action is essentially a commercial lease and payment dispute, not one affecting title, possession, use, or enjoyment of real property.

In opposition, plaintiffs argue that defendants' documentary evidence does not conclusively refute the complaint, but instead raises factual disputes concerning the operative lease, the alleged amended lease, the collateral assignment documents, and the parties' intent and performance. Plaintiffs contend that the complaint adequately alleges that defendants misrepresented their authority over the premises, refused to permit assignment despite agreed-

upon assignment protections, and relied on the hotly disputed Lease 2 containing a demolition clause. Plaintiffs also oppose cancellation of the notice of pendency, arguing that the action affects their leasehold, assignment, possession, use, and enjoyment rights in the premises.

In reply, defendants reassert that plaintiffs' claims are refuted by the lease documents, collateral assignment agreement, rent ledger, and default notices, and clarify that plaintiffs made only partial rent payments through October 2024, never paid full monthly rent, and now allegedly owe additional arrears. Defendants further argue that plaintiffs submitted no evidence creating a factual dispute, that only Krasdale may enforce the Amended Lease 1, that the notarized Lease 2 defeats the fraud claims, and that the notice of pendency must be cancelled because plaintiffs seek only contractual or derivative relief and remain in legal possession of the premises.

Discussion

“On a motion to dismiss a complaint pursuant to CPLR 3211(a)(7), the court must afford the complaint a liberal construction, accept the facts as alleged in the complaint as true, accord the plaintiff the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory” (*USCHAG Corp. v Flagstar Bank, FSB*, 220 AD3d 823, 823-24 [2d Dept 2023] [citation omitted]). “Although a court may consider materials submitted by the defendant in support of its motion, the materials must establish conclusively that the plaintiff has no cause of action” (*id.*). Moreover, “a court may freely consider affidavits submitted by the plaintiff to remedy any defects in the complaint and the criterion is whether the proponent of the pleading has a cause of action, not whether he has stated one” (*Leon v Martinez*, 84 NY2d 83, 88 [1994] [citation and internal quotation marks omitted]). “The pleading will be deemed to allege whatever may be implied from its statements by reasonable intendment and the court must give the pleader the benefit of all favorable inferences that may be drawn from the complaint” (*Dunn v Gelardi*, 59 AD3d 385, 386 [2d Dept 2009] [citation omitted]).

“A motion to dismiss pursuant to CPLR 3211(a)(1) will be granted only if the documentary evidence resolves all factual issues as a matter of law, and conclusively disposes of the plaintiff’s claim” (*Fontanetta v Doe*, 73 AD3d 78, 83 [2d Dept 2010] [citation and internal quotation marks omitted]). Such documentary evidence must be “of undisputed authenticity” (*id.*). Indeed, “[t]o constitute documentary evidence, the evidence must be unambiguous, authentic, and undeniable” (*Xu v Van Zwiennen*, 212 AD3d 872, 874 [2d Dept 2023] [citation and internal quotation marks omitted]).

Breach of Contract (First Cause of Action)

“The essential elements of a breach of contract cause of action are the existence of a contract, the plaintiff’s performance under the contract, the defendant’s breach of that contract, and resulting damages” (*Blank v Petrosyants*, 203 AD3d 685 [2d Dept 2022] [citations and internal quotation marks omitted]).

Accepting the allegations as true and affording plaintiff the benefit of every favorable inference as the Court must, plaintiffs sufficiently allege a breach of contract claim. Plaintiffs allege that GGJ&G, through Abreu, entered into Lease 1 with Ahmad Associates for the subject premises, that the parties thereafter executed Amended Lease 1 incorporating Krasdale-related assignment protections, and that defendants breached the agreement by refusing to permit or provide for the assignment after plaintiffs demanded performance. Plaintiffs further allege that they performed, or were ready, willing, and able to perform, their obligations, and sustained damages as a result.

Defendants argue that the claim is defeated by documentary evidence because plaintiffs failed to pay full rent, Lease 2 superseded Lease 1, and any assignment rights belonged only to Krasdale. However, defendants’ submissions do not conclusively resolve the parties’ disputes regarding the operative lease, plaintiffs’ performance or excuse for nonperformance, defendants’

alleged refusal to permit assignment, or the legal effect of the lease-related documents. Those arguments raise factual and contractual interpretation issues not suitable for resolution on a CPLR 3211 motion.

Accordingly, the branch of defendants' motion seeking dismissal of the first cause of action is denied.

Specific Performance (Second Cause of Action)

“The elements of a cause of action for specific performance of a contract are that the plaintiff substantially performed its contractual obligations and was willing and able to perform its remaining obligations, that defendant was able to convey the property, and that there was no adequate remedy at law” (*E & D Group, LLC v Violet*, 134 AD3d 981, 982-83 [2d Dept 2015] [citations omitted]).

Accepting the facts as alleged in the complaint as true and according plaintiffs the benefit of every possible favorable inference as the Court must, plaintiffs sufficiently allege a cause of action for specific performance. Plaintiffs allege that they performed, or were ready, willing, and able to perform, their obligations under Amended Lease 1, that defendants were able to permit or recognize the assignment contemplated by the lease-related documents, and that defendants refused to do so. Plaintiffs further allege that money damages are inadequate because the premises are unique given the location, size, zoning, and 25-year lease term.

Defendants argue that plaintiffs are not entitled to specific performance because plaintiffs were in default, any assignment rights belonged only to Krasdale, and defendants never refused a proper assignment request. However, defendants' arguments turn on disputed facts and competing interpretations of the parties' lease-related documents, including the operative lease, the effect of Amended Lease 1, and whether plaintiffs' alleged default bars equitable relief. Those issues are not suitable for resolution on a CPLR 3211 motion.

Accordingly, the branch of defendants' motion seeking dismissal of the second cause of action is denied.

Breach of the Implied Covenant of Good Faith and Fair Dealing (Third Cause of Action)

"The implied covenant of good faith and fair dealing is breached when a party acts in a manner that would deprive the other party of the right to receive the benefits of their agreement" (*1357 Tarrytown Rd. Auto, LLC v Granite Properties, LLC*, 142 AD3d 976, 977 [2d Dept 2016] [citations omitted]). "The implied covenant includes any promises which a reasonable promisee would be justified in understanding were included" (*id.*). However, "[a] cause of action to recover damages for breach of the implied covenant of good faith and fair dealing cannot be maintained where the alleged breach is intrinsically tied to the damages allegedly resulting from a breach of the contract" (*Deer Park Enterprises, LLC v Ail Sys., Inc.*, 57 AD3d 711, 712 [2d Dept 2008] [citations and internal quotation marks omitted]).

Here, plaintiffs' implied covenant claim is based on the same alleged conduct underlying the breach of contract claim. Plaintiffs do not allege any distinct conduct or damages separate from those alleged in support of the breach of contract claim, but merely restate that defendants deprived plaintiffs of the benefits of the parties' alleged lease agreement and assignment protections. Accordingly, the branch of defendants' motion seeking dismissal of the third cause of action is granted.

Declaratory Judgment (Fourth Cause of Action)

"A motion to dismiss a declaratory judgment action prior to the service of an answer presents for consideration only the issue of whether a cause of action for declaratory relief is set forth, not the question of whether the plaintiff is entitled to a favorable declaration" (*Matter of Tilcon New York, Inc. v Town of Poughkeepsie*, 87 AD3d 1148, 1150 [2d Dept 2011] [citations omitted]). "Accordingly, where a cause of action is sufficient to invoke the court's power to render

a declaratory judgment ... as to the rights and other legal relations of the parties to a justiciable controversy, a motion to dismiss that cause of action should be denied” (*id.* [internal quotation marks omitted]).

Accepting the facts as alleged in the complaint as true and according plaintiffs the benefit of every possible favorable inference as the Court must, plaintiffs sufficiently allege a claim for declaratory judgment of the parties’ rights and obligations, including that they owe no rent to defendants pursuant to Amended Lease 1 on or after that date. Defendants argue that the declaratory judgment claim should be dismissed because plaintiffs remained in possession of the premises, failed to pay rent, and the rent dispute is already at issue in a prior pending lease action. However, those arguments go to whether plaintiffs are ultimately entitled to the declaration sought, not whether plaintiffs have pleaded a justiciable controversy.

Accordingly, the branch of defendants’ motion seeking dismissal of the fourth cause of action is denied.

Fraud and Intentional Misrepresentation (Fifth Cause of Action) & Fraudulent Concealment or Nondisclosure (Sixth Cause of Action)

“To properly plead a cause of action to recover damages for fraud, the plaintiff must allege that (1) the defendant made a false representation of fact, (2) the defendant had knowledge of the falsity, (3) the misrepresentation was made in order to induce the plaintiff’s reliance, (4) there was justifiable reliance on the part of the plaintiff, and (5) the plaintiff was injured by the reliance” (*Pace v Raisman & Assoc., Esqs., LLP*, 95 AD3d 1185, 1188-89 [2d Dept 2012] [citations omitted]). “A cause of action alleging fraud must be pleaded with the requisite particularity pursuant to CPLR 3016(b)” (*id.* at 1189). “While there is no requirement that there be “unassailable proof at the pleading stage,” the basic facts constituting the fraud must be set forth”

(*id.* [internal quotation marks omitted]). “CPLR § 3016(b) is satisfied when the facts suffice to permit a reasonable inference of the alleged misconduct” (*id.*).

To sustain a cause of action for fraudulent concealment, a plaintiff must allege the four elements of fraud and “must further allege a fifth element, namely, that the defendant had a duty to disclose the material information” (*see Bannister v Agard*, 125 AD3d 797, 798 [2d Dept 2015] [citations omitted]).

Accepting the allegations as true and affording plaintiffs the benefit of every favorable inference, plaintiffs sufficiently allege causes of action for fraud, intentional misrepresentation, and fraudulent concealment or nondisclosure. Plaintiffs allege that defendants falsely represented that Ahmad owned, or otherwise had authority to lease, the subject premises, when defendants allegedly had already transferred their interest in the premises before entering into lease negotiations with plaintiffs. Plaintiffs further allege that defendants possessed superior knowledge concerning the ownership and leasehold structure of the premises, including the alleged master lease and the existence or effect of provisions affecting plaintiffs’ tenancy, but failed to disclose those facts during the negotiation and execution of Lease 1 and Amended Lease 1. Plaintiffs also allege that defendants later presented Lease 2, which contained a demolition clause allegedly inserted without Abreu’s knowledge or consent, despite plaintiffs’ position that Amended Lease 1 was the operative agreement and did not contain such a clause. These allegations sufficiently identify the alleged misrepresentations and concealment, defendants’ alleged knowledge, plaintiffs’ reliance, defendants’ alleged duty to disclose, and resulting damages.

Defendants’ submissions do not conclusively establish that plaintiffs fail to state a fraud claim as a matter of law. Although defendants argue that Lease 2 was notarized, that plaintiffs knew of and agreed to its terms, and that plaintiffs cannot establish damages, those arguments raise factual disputes and credibility issues not appropriate for resolution on a CPLR 3211 motion.

Accordingly, the branches of defendants' motion seeking dismissal of the fifth and sixth causes of action are denied.

Conspiracy to Commit Fraud (Seventh Cause of Action)

“Under New York law, [i]n order to properly plead a cause of action to recover damages for civil conspiracy, the plaintiff must allege a cognizable tort, coupled with an agreement between the conspirators regarding the tort, and an overt action in furtherance of the agreement” (*McSpedon v Levine*, 158 AD3d 618, 621 [2d Dept 2018] [citations and internal quotation marks omitted]).

Here, accepting the allegations as true and affording plaintiffs the benefit of every favorable inference, plaintiffs sufficiently allege a conspiracy to commit fraud. Plaintiffs allege an underlying cognizable tort, namely fraud, and further allege that defendants conspired with co-defendants The Doe Fund, Inc., 800 Rockaway Housing Development Fund Corporation, and others to misrepresent or conceal material facts concerning defendants' ownership or authority over the premises and the operative lease documents. Plaintiffs also allege overt acts in furtherance of the alleged scheme, including the negotiation of the lease documents, the alleged concealment of the ownership and leasehold structure, and defendants' alleged reliance on the disputed Lease 2 containing a demolition clause.

Accordingly, the branch of defendants' motion seeking dismissal of the seventh cause of action is denied.

Notice of Pendency

Pursuant to CPLR 6501, “[a] notice of pendency may be filed ... in which the judgment demanded would affect the title to, incumbrance of, or the possession, use or enjoyment of, real property.” Defendants argue that the notice of pendency should be cancelled because this action is, in substance, a commercial contract dispute and because plaintiffs seek only monetary or derivative relief. However, the complaint also seeks, among other relief, specific performance of

Amended Lease 1 and a declaration regarding the parties' rights and obligations concerning the subject premises. Plaintiffs' claims therefore implicate their alleged leasehold and assignment rights, and the relief sought may affect the possession, use, or enjoyment of the premises.

Because the Court has denied dismissal of plaintiffs' causes of action for specific performance and declaratory judgment, defendants have not established that the notice of pendency is improper as a matter of law. Accordingly, the branch of defendants' motion seeking cancellation of the notice of pendency is denied.

Conclusion

Based on the foregoing, defendants' motion is granted to the extent that the third cause of action alleging breach of the implied covenant of good faith and fair dealing is hereby dismissed as against all defendants. The remainder of defendants' motion is denied.

Any arguments not expressly addressed herein was considered and deemed without merit or unnecessary to address given the Court's determination.

ENTER:



Honorable Reginald A. Boddie
Justice, Supreme Court

HON. REGINALD A. BODDIE
J.S.C.