U.S. Bank Trust, N.A. v Flynn

2019 NY Slip Op 33381(U)

November 13, 2019

Supreme Court, New York County

Docket Number: 850300/2015

Judge: Arlene P. Bluth

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001(</u>U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

850300/2015 INDEX NO.

RECEIVED NYSCEF: 11/13/2019

NYSCEF DOC. NO. 73

[* 1]

SUPREME COURT OF THE STATE OF NEW YORK **NEW YORK COUNTY**

PRESENT:	HON. ARLENE P. BLUTH	PART		
•	Justice)		
	X	INDEX NO.	850300/2015	
U.S. BANK TRUST, N.A., AS TRUSTEE FOR LSF8 MASTER PARTICIPATION TRUST,		MOTION DATE	<u>N/A</u>	
	, Plaintiff,	MOTION SEQ. NO.	002	
	- V -	·		
SANDRA FLYNN AKA SANDRA M. FLYNN, BOARD OF MANAGERS OF THE HARDENBROOK HOUSE CONDOMINIUM, NYC ENVIRONMENTAL CONTROL BOARD, JOHN DOE, JANE DOE		MOTION, OF	DECISION + ORDER ON MOTION, ORDER OF REFERENCE	
	Defendant.	<i>.</i> .		
	X	· .	3 	
	e-filed documents, listed by NYSCEF document 4, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67,		5, 47, 48, 49, 50,	
were read on	ere read on this motion to/forJUDGMENT - SUMMARY			
	notion by plaintiff for summary judgment and The Court also restores this action as it was ina		•	
case shall no	w proceed before the undersigned.			
Acco	rdingly, it is hereby		•	
ORD	ERED that plaintiff's motion for summary jud	gment against Sandra	Flynn aka	

Sandra M. Flynn is granted and her answer and affirmative defenses are hereby severed and

dismissed; and it is further

ORDERED that plaintiff is awarded a default judgment against all non-appearing

defendants; and it is further	
	×.

ORDERED that Carol Lillenfeld, Esg. with an address of 750 Rind Avene Suite 2401 NYNY 10017 is hereby appointed Referee in

850300/2015 U.S. BANK TRUST, N.A., AS vs. SANDRA FLYNN AKA SANDRA M. Motion No. 002

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accordance with RPAPL § 1321 to compute the amount due to Plaintiff and to examine whether the tax parcel can be sold in parcels; and it is further

ORDERED that the Referee shall hold no hearing and take no testimony or evidence other than by written submission; the Court is the ultimate arbiter and the Referee's report is merely an advisory finding; 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 <u>\$350</u> 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 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

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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 the failure by defendants to submit objections to the referee shall 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 plaintiff must bring a motion for a judgment of foreclosure and sale within 30 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 Louis Garcia be substituted for John Doe and that Jane Doe be removed in this action and the caption shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

U.S. BANK TRUST, N.A., AS TRUSTEE FOR LSF8 MASTER PARTICIPATION TRUST

Plaintiff,

V. SANDRA FLYNN AKA SANDRA M. FLYNN, BOARD OF MANAGERS OF THE HARDENBROOK HOUSE CONDOMINIUM, NYC ENVIRONMENTAL CONTROL BOARD, LOUIS GARCIA,

Defendant(s).

and it is further

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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 substituted and 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 (ww.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.

Next Conference: March 31, 2020 @ 2:15 p.m. If a motion for judgment of foreclosure and sale has been filed, plaintiff may seek an adjournment of the conference. Please consult this part's rules for information on how to obtain an adjournment. If a motion has been made, then a conference is required to explore the reasons for the delay.

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11-13-19

CHECK ONE:

APPLICATION: CHECK IF APPROPRIATE:

CASE DISPOSED х GRANTED DENIED SETTLE ORDER INCLUDES TPANSEED/DEASSIGN

P. BLUTH, J.S.C. E P. BLUTH NON-FINAL D **GRANTED IN PART** OTHER SUBMIT ORDER FIDUCIARY APPOINTMENT

REFERENCE

850300/2015 U.S. BANK TRUST, N.A., AS vs. SANDRA FLYNN AKA SANDRA M. Motion No. 002