

NYCTL 2018-A Trust v Father Realty Corp.

2019 NY Slip Op 33601(U)

December 9, 2019

Supreme Court, New York County

Docket Number: 158729/2019

Judge: Arlene P. Bluth

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(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.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARLENE P. BLUTH PART IAS MOTION 32

Justice

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INDEX NO. 158729/2019

NYCTL 2018-A TRUST, AND THE BANK OF NEW YORK
MELLON AS COLLATERAL AGENT AND CUSTODIAN
FOR THE NYCTL 2018-A TRUST,

MOTION DATE 11/27/2019

MOTION SEQ. NO. 001

Plaintiffs,

- v -

FATHER REALTY CORP., NEW YORK CITY
DEPARTMENT OF FINANCE, NEW YORK STATE
DEPARTMENT OF TAXATION AND FINANCE, NEW YORK
CITY ENVIRONMENTAL CONTROL BOARD, CRIMINAL
COURT OF THE CITY OF NEW YORK, JOHN DOE NO. 1
THROUGH JOHN DOE NO. 100 INCLUSIVE, THE NAMES
OF THE LAST 100 DEFENDANTS BEING FICTITIOUS,
THE TRUE NAMES OF SAID DEFENDANTS BEING
UNKNOWN TO PLAINTIFF, IT BEING INTENDED TO
DESIGNATE FEE OWNERS, TENANTS OR OCCUPANTS
OF THE LIENED, PREMISES AND/OR PERSONS OR
PARTIES HAVING OR CLAIMING AN INTEREST IN OR A
LIEN UPON THE LIENED PREMISES, IF THE AFORESAID
INDIVIDUAL DEFENDANTS ARE LIVING, AND IF ANY OR
ALL OF SAID INDIVIDUAL DEFENDANTS BE DEAD,
THEIR HEIRS AT LAW, NEXT OF KIN, DISTRIBUTEES,
EXECUTORS, ADMINISTRATORS, TRUSTEES,
COMMITTEES, DEVISEES, LEGATEES, AND THE
ASSIGNEES, LIENORS, CREDITORS AND SUCCESSORS
IN INTEREST OF THEM, AND GENERALLY ALL
PERSONS HAVING OR CLAIMING UNDER, BY,
THROUGH, OR AGAINST THE SAID DEFENDANTS,
NAMED AS A CLASS, OF ANY RIGHT, TITLE, OR
INTEREST IN OR LIEN UPON THE PREMISES
DESCRIBED IN THE COMPLAINT HEREIN

DECISION + ORDER ON
MOTION, ORDER OF
REFERENCE

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 12, 13, 14, 15, 16,
17, 18, 19, 20, 21, 22, 23, 24

were read on this motion to/for APPOINT - REFEREE

Upon the foregoing documents, it is

ORDERED that the motion for a default judgment and to appoint a referee is granted

against the non-appearing defendants; and it is further

ORDERED that Ahn Pinass Berman, Esq. 60 E 42nd St, 40th Floor, NY NY 10165 212-867-5464 is hereby appointed Referee in accordance with RPAPL § 1321 to compute the amount due to Plaintiffs 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 \$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 plaintiffs 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 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 plaintiffs 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 plaintiffs fail to meet these deadlines, then the Court may *sua sponte* vacate this order and direct plaintiffs to move again for an order of reference and the Court may *sua sponte* toll interest depending on whether the delays are due to plaintiffs' failure to move this litigation forward; and it further

ORDERED that the John Doe defendants Nos. 2 through 100 be removed from the caption and the caption be amended to substitute Rainbow Shop Sexy Boutique sha John Doe No. 1 for John Doe No. 1; and it is further

ORDERED that the caption shall read as follows:

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

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NYCTL 2018-A TRUST, AND THE BANK OF NEW
YORK MELLON AS COLLATERAL AGENT AND
CUSTODIAN FOR THE NYCTL 2018-A TRUST,
Plaintiffs,

v.

FATHER REALTY CORP., NEW YORK CITY
DEPARTMENT OF FINANCE, NEW YORK STATE
DEPARTMENT OF TAXATION AND FINANCE,
NEW YORK CITY ENVIRONMENTAL CONTROL
BOARD, CRIMINAL COURT OF THE CITY OF
NEW YORK, RAINBOW SHOP SEXY BOUTIQUE
SHA JOHN DOE NO. 1,

Defendant(s).
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and it is further

ORDERED that counsel for plaintiffs 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 and substituted 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 Plaintiffs 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: April 7, 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.

12/9/19

DATE



ARLENE P. BLUTH, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE