

**Saleh v Hudson 418 Riv. Rd. Ltd.**

2020 NY Slip Op 31653(U)

May 27, 2020

Supreme Court, Kings County

Docket Number: 526794/2019

Judge: Leon Ruchelsman

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  
COUNTY OF KINGS: CIVIL TERM: COMMERCIAL PART 8

-----X

EBRAHIM SALEH,  
Plaintiff,

Decision and Order

-against-

May 27, 2020

Index #526794/2019

HUDSON 418 RIVER RD. LTD.,  
Defendants,

-----X

PRESENT: HON. LEON RUCHELSMAN

The defendants have moved seeking to vacate a decision and order entered on February 26, 2020. Alternatively, the defendants seek to reargue the relief granted in that decision. The plaintiff opposes the motion and has cross-moved seeking a default judgement against the defendants. The motions have been opposed respectively. Papers were submitted by the parties and arguments held. After reviewing all the arguments, this court now makes the following determination.

In a related action *Hudson 418 River Road LLC v. Safiya Consultants Inc., et, al*, Index Number 510351/2018 the court granted a preliminary injunction on behalf of the plaintiff there, 418 Hudson restraining the defendants in that action from engaging in any construction at property located at 986 Gates Avenue in Kings County. Further, in that decision the court

concluded that Hudson 418 River Road LLC was at least half owner of the property and that it was seeking a determination concerning the ownership of the remaining half of the property with an entity called Brooklyn Broadway Masjid & Islamic Center [hereinafter 'Masjid']. There were questions whether the Masjid's contract purchasing half the property from an entity called Kobas and Solih Realty LLC was fraudulently induced.

In this action Ebrahim Saleh, half owner of Kobas and Solih Realty LLC has sued 418 Hudson asserting that the transfer of ownership of half the property to 418 Hudson was improper and without the consent of Saleh who was half owner of the seller of the property. Saleh then moved seeking an injunction essentially stopping 418 Hudson from engaging in any repairs of the property and from exercising any ownership over the property. The court signed an order granting the injunction which likewise vacated the earlier injunction against the Masjid. 418 Hudson has now moved seeking to vacate the order dated February 26, 2020 and to reinstate the earlier injunction.

#### Conclusions of Law

It is well settled that to succeed upon a motion to vacate a default the party must demonstrate a reasonable excuse for the default and a meritorious defense (Golden Mountain Income v.

Spencer Gifts, LLC, 167 AD3d 850, 88 NYS3d 889 [2d Dept., 2018]).

Considering the facts of this case a reasonable excuse has been presented.

Concerning a meritorious defense, in the prior decision the court concluded that an Asset Purchase and Stock Sale Agreement signed by Amin Kobas on behalf of Kobas and Solih conferred ownership of half the property upon 418 Hudson. That decision, dated May 24, 2018 foreclosed any ownership rights in that half of the property upon Kobas and Solih and the individuals of that entity. On December 10, 2018 the court rendered another decision wherein the court denied the defendants request to dismiss the action on the grounds that Saleh was half owner of Kobas and Salih and therefore plaintiff did not really purchase half the property. The court noted 418 Hudson's argument that any memorandum demonstrating that Saleh was an owner of the property was a forgery. The court concluded that issue would have to be resolved but at present the plaintiff presented viable claims and the motion to dismiss was denied.

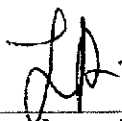
Thus, the court already decided there were questions concerning the ownership of Kobas and Salih which impacts the ownership of interests of 418 Hudson. Thus, the new lawsuit is really an opportunity to reargue and reconsider the previous determination. That is an improper basis upon which to

institute a new action. As the plaintiff argues in his cross-motion, it is improper to reargue issues that have already been decided by the court (see, Notice of Cross-Motion, ¶¶55-57). Further, the plaintiff never moved to reargue the injunction already imposed. Thus, the motion and subsequent order vacating that injunction and granting an injunction preventing 418 Hudson from performing any work was improper. Therefore, based on the foregoing the motion seeking to reargue the decision dated February 26, 2020 is granted. Upon reargument the motion seeking an injunction is denied and the previous injunction preventing the Masjid from interfering with any work undertaken by 418 Hudson is now reinstated. The cross-motion seeking a default is hereby denied.

So ordered.

ENTER:

Dated: May 27, 2020  
Brooklyn, N.Y.

  
\_\_\_\_\_  
Hon. Leon Ruchelsman  
JSC