

Williams v Williams
2022 NY Slip Op 34423(U)
December 16, 2022
Supreme Court, Kings County
Docket Number: Index No. 513145/2020
Judge: Ingrid Joseph
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At IAS Part 83 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, Brooklyn, New York 11201 on the 16th day of December 2022.

P R E S E N T: HON. JUSTICE INGRID JOSEPH, J.S.C.
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
ALFRED WILLIAMS,

Index No.: 513145/2020

Plaintiff,

ORDER AND JUDGMENT

-against-

CHARLES G. WILLIAMS, JR., CHARLES
WILLIAMS and NEW YORK
PAPERCHASERS, LLC,
Defendants.

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The following e-filed papers considered herein:

	<u>NYSCEF Nos:</u>
Notice of Motion/Affidavit/Affirmation/Exhibits Annexed	<u>9 - 23; 29 - 36</u>
Affirmations in Opposition	<u>28 - 39; 47 - 53</u>
Reply	<u>40 - 46</u>

In this matter, plaintiff, Alfred Williams (“plaintiff”), moves by Notice of Motion (Motion Seq. 1) for summary judgment pursuant to RPAPL Article 15, determining, declaring and adjudging plaintiff the owner of at least one-half, or fifty percent (50%), of the real property located at 714 Schenck Avenue, Brooklyn, New York 11207 (“premises”). Defendant, New York Paperchasers (“Paperchasers”), opposes the motion and cross moves (Motion Seq. 2) for a default judgment against plaintiff for failing to timely interpose a Reply to its counterclaims.

Plaintiff commenced this matter by the filing of a Summons and Verified Complaint on January 22, 2020, wherein plaintiff included two paragraphs for relief as follows. In the first paragraph, plaintiff requests an Order and Judgment, pursuant to Article 15 of the New York Real Property Actions and Proceedings Law, reversing the purported transfer of ownership of the subject premises to New York Paperchasers, LLC. via deed dated July 25, 2017 and declaring and adjudging that such transfer, for no consideration, was a sham, invalid, fraudulent, void and of no force and effect. In the second paragraph, plaintiff requests an Order and Judgment, pursuant to Article 15 of the New York Real Property Actions and Proceedings Law, directing the applicable Clerk to correct and amend title to the subject premises accordingly, so as to vest ownership interest in the premises exclusively in the names of the rightful owners: Alfred Williams (one-half, or fifty percent), and the Estate of Charles Williams and/or the Estate of Elizabeth Lingard Williams and/or their two children, defendants Charles G. Williams and Leroy Williams (one quarter, or twenty-five percent each).

Plaintiff annexed a copy of a deed to establish that his late uncle and aunt (brother and sister), Charles Williams (referred to herein as the "Williams Sr.") and Lorenza McNeill, purchased the premises at 714 Schenck Avenue, Brooklyn, New York 11207 on September 23, 1966. Plaintiff submitted the death certificate of Williams Sr, who plaintiff asserts died intestate on July 26, 1998 and the front copy of a program for the funeral service that was held on December 30, 2007 for Williams Sr.'s late wife (Elizabeth Lingard Williams). Plaintiff avers that his Uncle, Williams Sr.'s fifty percent (50%) would have vested in his wife, Elizabeth Lingard Williams, before she died. Plaintiff contends that Williams Sr. and Elizabeth Lingard Williams had two children, Charles G. Williams, Jr. (referred to herein as

“Williams Jr.”) and Leroy Williams, both of whom would have inherited twenty-five (25%) each upon their mother’s death. However, plaintiff explains that Williams Sr.’s and Elizabeth Lingard Williams’ estates were never probated but under the laws of intestacy Williams, Jr. and Leroy Williams would have inherited twenty-five percent (25%) each. Plaintiff contends that he owns the remaining fifty percent, because his late aunt, Lorenza McNeill, conveyed her interest to him by deed on July 24, 1999, before she passed away.

Plaintiff submitted the copy of a quitclaim deed that was executed on July 25, 2017, which reveals that “Charles Williams¹” transferred one-hundred percent (100%) ownership interest in the premises to defendant New York Paperchasers, LLC. Plaintiff contends that it is unclear which “Charles Williams” executed the quitclaim deed, because Williams Jr. and his son, Charles Williams III (“Williams III”), have essentially the same name. Notwithstanding that issue, plaintiff maintains that neither individual could convey sole ownership of the premises to Paperchasers. Plaintiff acknowledges that Williams Jr. may be entitled to 25% ownership interest in the premises. However, plaintiff explains that Williams Jr. and his brother, Leroy Williams, never became title owners, since they did not probate their late mother’s estate. Notwithstanding that issue, plaintiff maintains that neither Williams Jr., nor his son, Williams III, had the power to convey one-hundred percent (100%) interest in the premises to Paperchasers.

The defendants oppose plaintiff’s motion and maintain that the drastic remedy of summary judgment is premature due to outstanding discovery. Williams III submitted an

¹This matter involves three individuals with the name Charles Williams. The original owner, Charles Williams, is the father of defendant Charles G. Williams, Jr., who has a son with the same name, Charles Williams III.

affidavit, wherein he alleges that the plaintiff “has never shown any legal documents substantiating his claim that he owns fifty percent interest (50%) in the premises (NYSCEF Doc. No. 39). Williams III further alleges that the plaintiff “abandoned” his interest in the premises because plaintiff does not reside there and never paid for its up keep (NYSCEF Doc. No. 39). Additionally, Paperchasers submitted the affidavit of its owner, Sonya Harvey (“Harvey”), together with the copies of a promissory note and a negotiated check dated May 5, 2017 in the amount of \$24,100 that was made payable to “1998-2 Trust./MTAh”² on May 5, 2017 (NYSCEF Doc. No. 32).

Harvey, in a sworn statement, avers that she was approached by Williams Jr. in 2017, who claimed that he “was about to lose the subject property because of unpaid real estate taxes” (NYSCEF Doc. No. 29). Harvey states that Williams Jr. requested a loan of “\$100,000 to pay the outstanding real estate taxes,” which she agreed to lend to him at a rate of four percent interest (4%) per annum to be repaid in one hundred twenty equal, consecutive payments of \$875.53 each month (NYSCEF Doc. No. 29). Harvey further states that Williams Jr. also agreed to “transfer his interest in the property to [her] as security for the loan” (NYSCEF Doc. No. 29). Further, in support of the cross motion, Harvey contends that she is entitled to a default judgment on her First through Third counterclaims on the ground that plaintiff failed to timely file a Reply.

In an action to quiet title pursuant to RPAPL article 15, the movant must establish that it holds title, or that the nonmovant's title claim is without merit (*see 5000, Inc. v. Hudson One, Inc.*, 130 AD3d 676 [2d Dept 2015]; *Clochessy v. Gagnon*, 58 AD3d 1008, 1009–1010

²Remaining handwriting on “Payee” line illegible..

[2d Dept 2009]; *M. Parisi & Son Constr. Co., Inc. v. Adipietro*, 21 AD3d 454, 410 [2d Dept 2005]).

In this case, the court finds that plaintiff has established, prima facie, that the previous property owners, Williams Sr. and Lorenza McNeill, each owned fifty percent (50%) interest in the premises. Plaintiff also established that one of the two original owners, Lorenza McNeill, conveyed her fifty percent (50%) interest to him by deed on July 24, 1999 and recorded it in the Kings County Office of the City Register on August 6, 1999. Plaintiff further established that the transaction between “Charles Williams,” Harvey, and her company, Paperchasers, occurred in 2017, several years after plaintiff became fifty percent (50%) owner of the premises by deed in 1999. Plaintiff has established that the other fifty percent (50%) ownership interest would have passed to the late Williams Sr.’s widow, Elizabeth Lingard Williams. Since Williams Sr. and Elizabeth Lingard Williams are deceased, it follows that their sons, Williams Jr. and Leroy Williams, were entitled to an equal ownership interest of twenty-five percent (25%) each after their mother (Elizabeth Lingard Williams) died. Neither individual came forward to effectuate transfer of title based upon New York succession law.

Even if such transfer occurred, neither Williams Jr., nor his son, Charles Williams III, had the authority to transfer title to Paperchasers. Firstly, Williams III has no ownership interest whatever and secondly, Williams Jr. never obtained legal title that reflects his twenty-five percent (25%) ownership interest. Consequently, Williams Jr. could not have conveyed to Paperchasers what he never obtained. For this reason, the court finds invalid the quit claim deed, wherein “Charles Williams” conveyed one hundred percent (100%) ownership interest in the premises to Paperchasers. Moreover, the court finds that such deed

is incapable of ratification and void as a matter of law.

Furthermore, the court finds that Paperchasers is not entitled to a default judgment on its counterclaims against plaintiff. A defendant asserting counterclaims must seek leave to enter a default judgment within one year after the default on the counterclaims has occurred (CPLR § 3215(c) (*see Giglio v. NTIMP, Inc.*, 86 AD3d 301, 307 [2d Dept 2011]; *Mint Factors v. Goldman*, 74 AD2d 599, 599). Here, the court finds that Paperchaser's application for a default is untimely, since it filed its Answer with counterclaims on August 20, 2020 and moved for a default judgment more than one year later, on February 1, 2022. Even if Paperchasers sought to enter a default judgment within the requisite time period, the court finds that its counterclaims fail to state facts sufficient to constitute causes of action against plaintiff. The First and Second counterclaims, for reimbursement of \$60,000 for monies spent and the recovery of rent proceeds, are neither supported by the facts nor corroborated by evidentiary proof. There is no proof that Paperchasers expended monies, or that "Charles Williams" ever received funds from Paperchasers, even though he subsequently signed a promissory note. In fact, the only sum of money that was exchanged contemporaneously with the "Charles Williams"/Paperchasers deed transaction consisted of a check in the amount of \$24,100 that was made payable to a non-party trust (1998-2 Trust). There is no showing of a correlation between 1998-2 Trust and the parties in this matter. Paperchasers Third counterclaim for the recovery of counsel fees and litigation costs is without merit, because a litigant must absorb its own counsel fees and costs unless there is a contractual or statutory basis for imposing such fees against the plaintiff (*Millman v Brownlee*, 133 AD2d 221, 222 [2d Dept 1987] *citing Matter of Green [Potter]*, 51 NY2d 627, 629-630 [1980]). Paperchasers is not in privity with plaintiff and has failed to identify a

statutory provision that provides for the recovery of legal fees and costs.

Based upon the foregoing, it is hereby

ORDERED, ADJUDGED AND DECREED that plaintiff's motion for summary judgment (Motion Sequence 1) is granted to the extent that the deed dated July 25, 2017, and recorded on May 8, 2018 at CRFN 2018000152839 at the Office of the City Register of the City of New York is void with no force or effect, and it is

ORDERED that the motion of defendant, New York Paperchasers LLC (Motion Sequence 2) is denied in its entirety.

This constitutes the decision, order and judgment of the court.

ENTER,



HON. INGRID JOSEPH, J.S.C.

**Hon. Ingrid Joseph
Supreme Court Justice**