

NYCTL 2021-A Trust v Riverton Realty LLC

2023 NY Slip Op 31519(U)

May 3, 2023

Supreme Court, New York County

Docket Number: Index No. 157337/2022

Judge: Francis A. Kahn III

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. FRANCIS A. KAHN, III PART 32

Justice

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NYCTL 2021-A TRUST, THE BANK OF NEW YORK
MELLON AS COLLATERAL AGENT AND CUSTODIAN
FOR THE NYCTL 2021-A TRUST,

Plaintiff,

- v -

RIVERTON REALTY LLC, TERRASURE SERVICES,
LLC, GALINN FUND LLC, THE CITY OF NEW YORK -
DEPARTMENT OF FINANCE, THE STATE OF NEW YORK
- DEPARTMENT OF TAXATION AND FINANCE, JOHN
DOE NO. 1 THROUGH JOHN DOE NO. 100,

Defendant.

-----X

TERRASURE SERVICES, LLC

Plaintiff,

-against-

NU GENERAL CONTRACTING, INC.

Defendant.

-----X

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 595891/2022

The following e-filed documents, listed by NYSCEF document number (Motion 001) 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33

were read on this motion to/for JUDGMENT - SUMMARY

Upon the foregoing documents, the motion is granted without opposition as follows:

ORDERED that the motion for summary judgment against the appearing parties and a default judgment against the non-appearing Defendants is granted; and it is further

ORDERED that the cross-claims and third-party claims pled by Defendant/Third-Party Plaintiff Terrasure Services, LLC are severed for Plaintiff's claims, and it is

ORDERED that that **Scott H. Siller, Esq., 706 Equestrian Way, Westbury, NY 11590 -- 516-644-6769** is hereby appointed Referee in accordance with RPAPL § 1321 to calculate the amount due Plaintiff and to examine whether the tax parcel can be sold in parcels; and it is further

ORDERED that if a Defendant appears and contests the amount due, in the discretion of the Referee, a hearing may be held, and testimony taken, otherwise the Referee shall hold no hearing and take no testimony or evidence other than by written submission; 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 if the Referee holds a hearing or is required to perform other significant services in issuing the report, the Referee may seek additional compensation at the Referee’s usual and customary hourly rate; 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

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 the caption of this action be amended to reflect that the names of defendants "JOHN DOE No.1" through "JOHN DOE No. 100" be severed and stricken from the caption herein and that the action be discontinued as to them, and thit is further

ORDERED that the caption shall read as follows:

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

-----X
NYCTL 2021-A TRUST, and THE BANK OF NEW |
YORK MELLON as Collateral Agent and Custodian for |
the NYCTL 2021-A Trust

Index No. 157337/2022

Plaintiff,

-against-

RIVERTON REALTY LLC; TERRASURE
SERVICES, LLC; GALINN FUND LLC;
THE CITY OF NEW YORK - DEPARTMENT OF
FINANCE; and THE STATE OF NEW YORK -
DEPARTMENT OF TAXATION AND FINANCE

Defendants

-----X

TERRASURE SERVICES, LLC,

Third-Party Plaintiff,

- against -

NU GENERAL CONTRACTING, INC.,

Third-Party Defendant.

-----X

and it is further

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 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 (www.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.

All parties are to appear for a virtual conference via Microsoft Teams on **September 6, 2023, at 12:00 pm**. If a motion for judgment of foreclosure and sale has been filed Plaintiff may

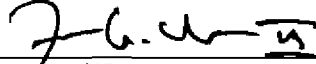
contact the Part Clerk Tamika Wright (tswright@nycourt.gov) in writing to request that the conference be cancelled. If a motion has not been made, then a conference is required to explore the reasons for the delay.

5/3/2023
DATE

CHECK ONE: CASE DISPOSED GRANTED DENIED

APPLICATION: SETTLE ORDER SUBMIT ORDER

CHECK IF APPROPRIATE: INCLUDES TRANSFER/REASSIGN FIDUCIARY APPOINTMENT REFERENCE


 FRANCIS A. KAHN III, J.S.C.
HON. FRANCIS A. KAHN III
 J.S.C.