SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION, FIRST DEPARTMENT

Qiaoshang Intl. LLC v. Bryant Park Funding 100, LLC

2026 NY Slip Op 02221 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Index Nos. 651888/23, 153489/21; Appeal No. 6362; Case No. 2025-00647 · Decided April 14, 2026

SUMMARY

The Appellate Division, First Department, affirmed a judgment cancelling Bryant Park Funding 100, LLC's mortgage on two condominium units and granting plaintiffs summary judgment. The court held that plaintiffs had an interest in the units and that the mortgagee had actual or constructive notice of that interest, defeating bona fide encumbrancer status. The court also upheld specific performance against the development entities and rejected the mortgagee's request for additional discovery.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Webber, J.P.; Gesmer, J.; Mendez, J.; Pitt-Burke, J.; Hagler, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	April 14, 2026
DOCKET	Index Nos. 651888/23, 153489/21; Appeal No. 6362; Case No. 2025-00647
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment of Supreme Court, New York County, entered January 24, 2025, and review of orders entered on or about July 12, 2024, granting plaintiffs summary judgment.
STANDARD OF REVIEW	The Appellate Division reviewed the grant of summary judgment and Supreme Court's exercise of discretion under CPLR 3212(f) for whether plaintiffs established entitlement to judgment as a matter of law and whether BPF showed that additional discovery could affect the outcome.
PRECEDENTIAL VALUE	published
PARTIES	Bryant Park Funding 100, LLC v. Qiaoshang International LLC, Ying "Vivian" Ding

TOPICS

mortgages · specific performance remedy · summary judgment · recording acts · commercial litigation

PRACTICE AREAS

real estate · commercial litigation · civil procedure · appellate procedure · remedies

QUESTIONS PRESENTED

1. Whether plaintiffs established an interest in the condominium units sufficient to defeat BPF's status as a bona fide encumbrancer when BPF took and recorded its mortgage.
2. Whether HFZ waived the contractual requirement that Qiaoshang deliver a conversion notice.
3. Whether specific performance could be ordered against HFZ-affiliated entities that indirectly controlled the direct owner of the units.
4. Whether Supreme Court properly granted summary judgment despite BPF's request for additional discovery under CPLR 3212(f).

HOLDINGS

1. Plaintiffs were entitled to summary judgment cancelling BPF's mortgage because they established an interest in the units, BPF knew which units Qiaoshang sought to acquire, and BPF had actual or constructive notice of that interest before taking and recording the mortgage.
2. HFZ waived the requirement that Qiaoshang deliver a conversion notice.
3. Specific performance was properly granted against HFZ because its control over the direct owner of the units gave it the power to effectuate specific performance.
4. Supreme Court properly granted summary judgment notwithstanding BPF's request for additional discovery.

KEY QUOTATIONS

> *"BPF's actual or constructive notice meant that BPF was not a bona fide encumbrancer when it was granted and subsequently recorded its mortgage"* (*2)

FACTUAL BACKGROUND

Qiaoshang entered into agreements with HFZ-affiliated entities to acquire two condominium units, 31A and 31B, by first obtaining membership interests that could be converted into unit ownership after approval of the condominium offering plan. Although the offering plan was approved on May 4, 2017, HFZ failed to send the required offering notice, and Qiaoshang therefore did not send a conversion notice. Despite that failure, HFZ and BPF's principal treated Qiaoshang as the units' owner for several years. HFZ later granted BPF a mortgage on the units on May 27, 2022, after BPF had actual or constructive notice of Qiaoshang's interest.

PROCEDURAL HISTORY

Plaintiffs moved for summary judgment against Bryant Park Funding 100, LLC and for specific performance against the HFZ defendants. Supreme Court granted the motion, ordered specific performance, and cancelled BPF's mortgage against the condominium units. The Appellate Division affirmed the judgment to the extent appealed from and awarded costs.

DISPOSITION

affirmed

CASES CITED

- Warwick St Partners LLC v Harris, 200 AD3d 586, 587 [1st Dept 2021], lv dismissed 38 NY3d 1168 [2022]
- Condor Funding, LLC v 176 Broadway Owners Corp., 147 AD3d 409, 411 [1st Dept 2017]
- 75 Christopher St. Corp. v Furman, 138 AD2d 323, 323-324 [1st Dept 1988]
- 2386 Creston Ave. Realty, LLC v M-P-M Mgt. Corp., 58 AD3d 158, 163 [1st Dept 2008], lv denied 11 NY3d 716 [2009]

OPINION

Qiaoshang Intl. LLC v. Bryant Park Funding 100, LLC 2026 NY Slip Op 02221
PER CURIAM.
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limited by the briefs, cancelling the mortgage of defendant Bryant Park Funding 100, LLC (BPF) against 16 West 40th Street, New York, NY, units 31A and 31B, recorded on June 28, 2022, and bringing up for review orders, same court and Justice, entered on or about July 12, 2024, which granted plaintiffs' motion for summary judgment, unanimously affirmed, with costs.</p> <p>On April 17, 2017, plaintiff Qiaoshang International LLC (Quiaoshang) executed two substantially identical letter agreements, one with defendant HFZ Bryant Park Member I LLC (HFZ I) and the other with defendant HFZ Bryant Park Member II LLC (HFZ II). Together, HFZ I and II indirectly owned a controlling interest in defendant 20 West 40 Bryant Park Owner LLC, the owner of The Bryant, a condominium development located on 40th Street in Manhattan. HFZ I and II, together with their affiliates, defendants HFZ Capital Group LLC, HFZ Bryant Park Owner LLC and HFZ Bryant Park Manager LLC (collectively, HFZ), were in the process of developing The Bryant. Qiaoshang entered into these agreements with the express purpose of acquiring two adjacent units in the building that were being marketed as units 31A and B. However, until the New York Attorney General approved the condominium offering plan, the units could not be purchased outright. Thus, under the agreements, Qiaoshang paid a substantial sum in exchange for a membership interest in the two LLCs, with an agreement that, within 10 days following the offering plan's effective date, HFZ was to issue Qiaoshang an offering notice so that Qiaoshang could, if it chose, deliver a "conversion notice" to HFZ, thereby starting the process of converting its membership interests into ownership of the units.</p> <p>This arrangement had been structured by Qiaoshang's principal, plaintiff Ying Ding, and Nicholas Mastroianni, the principal of defendant United States Immigration Fund, LLC (USIF), who was also principal of BPF. As part of this arrangement, USIF agreed to pay money which it owed to Ding's entity.</p> <p>The Attorney General approved the offering plan on May 4, 2017. HFZ, which has defaulted, has not disputed that it failed to send the offering notice within the time set by their agreement. As a result, Qiaoshang did not send HFZ a conversion notice. Despite this, the record establishes that over the next several years, both HFZ and Mastroianni treated Qiaoshang as the units' owner, until at least late 2020.</p> [*2] <p>The court properly granted plaintiffs' motion for summary against BPF. Plaintiffs established that they had an "interest" in the subject units, that BPF knew precisely which units Qiaoshang sought to acquire, and that BPF had actual or at least constructive notice of this interest by the time HFZ granted BPF a mortgage on May 27, 2022 (<i>see</i> <i>Warwick St Partners LLC v Harris</i>, 200 AD3d 586, 587 [1st Dept 2021], <i>lv dismissed</i> 38 NY3d 1168 [2022]). The record also establishes that HFZ, which defaulted, waived any requirement that Qiaoshang deliver a conversion notice (<i>see</i> <i>Condor Funding, LLC v 176 Broadway Owners Corp.</i>, 147 AD3d 409, 411 [1st Dept 2017]). BPF's actual or constructive notice meant that BPF was not a bona fide encumbrancer when it was granted and subsequently recorded its mortgage (<i>see Warwick St Partners LLC</i>, 200 AD3d at 587).</p> <p>The court also properly granted plaintiffs' motion for summary judgment on their cause of action seeking specific performance against HFZ. Although HFZ I and II did not directly own the units, their control over the direct owner gave them the power to exercise specific performance (<i>see 75 Christopher St. Corp. v Furman</i>, 138 AD2d 323, 323-324 [1st Dept 1988]). The language BFP argues constitutes a condition precedent for closing merely sets the maximum time limit by which HFZ could set a closing date, a matter otherwise left to HFZ's discretion. After HFZ had failed to exercise that discretion, and then defaulted the court ordered specific performance. In any event, the timeframes set in the agreement do not undermine the conclusion that the record establishes that Qiaoshang had an interest in the property sufficient to defeat BPF's status as a bona fide encumbrancer (<i>see</i> <i>Warwick St Partners LLC</i>, 200 AD3d at 587; <i>2386 Creston Ave. Realty, LLC v M-P-M Mgt. Corp.</i>, 58 AD3d 158, 163 [1st Dept 2008], <i>lv denied</i> 11 NY3d 716 [2009]).</p> <p>The court also providently exercised its discretion in granting summary judgment notwithstanding BPF's request for additional discovery (<i>see</i> CPLR 3212[f]). BPF does not adequately explain how the additional discovery it sought would establish that it lacked actual or constructive notice, or how the additional discovery might otherwise change the motion's outcome.</p> <p>We have considered the remaining arguments and find them unavailing.</p> <p>THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.</p> <p>ENTERED: April 14, 2026</p> </div> <div> <footer> <div> <p>Court Decisions</p> All Court Decisions Official Reports Service Bound Volumes Decision Search </div> <div> <p>Resources</p> RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index </div> <div> <p>About</p> About the Law Reporting Bureau About our Operations Contact Us Twitter </div> <div> <p>Quick Contact Info</p> <p>17 Lodge Street</p> <p>Albany, NY 12207</p> <p>Phone: (518) 453-6900</p> </div> </footer> </div> <div> <p>Links to or from other sites do not signify endorsement or relationship with them.</p> </div> </div>