

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

BH 336 Partners LLC v. Sentinel Real Estate Corp.

2026 NY Slip Op 00305 · No. Index No. 653867/23; Appeal No. 5646; Case No. 2025-02914 · Decided January 22, 2026

SUMMARY

The Appellate Division, First Department modified an order denying defendants' motion to dismiss, holding that claims by most plaintiffs were time-barred under CPLR 213(8), while claims by EZ Wadsworth Partners LLC and BH 336 Partners LLC survived. The court also held that the assignee plaintiffs' standing presented a factual issue because broad assignment language and the surrounding circumstances could establish an intent to transfer fraud claims.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Manzanet-Daniels, J.P.; Webber, J.; Friedman, J.; González, J.; Michael, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	January 22, 2026
DOCKET	Index No. 653867/23; Appeal No. 5646; Case No. 2025-02914
DISPOSITION	other
PROCEDURAL POSTURE	Defendants appealed from an order denying their motion to dismiss the complaint under CPLR 3211(a)(1), (3), (5), and (7).
STANDARD OF REVIEW	On a CPLR 3211 motion to dismiss, the court determines whether the pleading states a cognizable claim and whether documentary evidence establishes a defense as a matter of law; defendants bear the burden of establishing the standing defect and other grounds for dismissal.
PRECEDENTIAL VALUE	Published
PARTIES	Sentinel Real Estate Corporation, GRF I Manager Corp. v. BH 336 Partners LLC, EZ Wadsworth Partners LLC, other plaintiffs

TOPICS

fraud

statute of limitations

motions to dismiss

standing

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the fraud claims of plaintiffs other than EZ Wadsworth Partners LLC and BH 336 Partners LLC were barred by the applicable statute of limitations.
2. Whether plaintiffs could invoke the two-year fraud-discovery period despite receiving information placing them on inquiry notice of the alleged deregulation scheme.
3. Whether the assignee plaintiffs lacked standing because they did not contract directly with defendants and their assignments did not expressly assign fraud claims.
4. Whether the contracts' general disclaimer barred the plaintiffs' fraud claims.

HOLDINGS

1. The fraud claims of plaintiffs other than EZ Wadsworth Partners LLC and BH 336 Partners LLC were time-barred because the relevant contracts were executed more than six years before the action was commenced, including applicable COVID-related tolling.
2. The time-barred plaintiffs could not rely on the two-year discovery period because they were placed on inquiry notice of the possibility of the fraudulent deregulation scheme no later than June 20, 2019 and failed to investigate.
3. Defendants did not establish on the motion to dismiss that EZ Wadsworth Partners LLC and BH 336 Partners LLC lacked standing merely because their affiliates, rather than the plaintiffs themselves, entered the original purchase contracts.
4. The general disclaimer in the contracts did not bar the fraud claims because it did not specifically disclaim reliance on the particular type of facts allegedly misrepresented or undisclosed, which were peculiarly within the sellers' knowledge.

KEY QUOTATIONS

“the right to assert a fraud claim related to a contract or note does not automatically transfer with the respective contract or note” (at 550)

“Thus, where an assignment of fraud or other tort claims is intended in conjunction with the conveyance of a contract or note, there must be some language—although no specific words are required—that evinces that intent and effectuates the transfer of such rights” (at 550)

FACTUAL BACKGROUND

Plaintiffs and their affiliates entered five contracts between December 18, 2015, and May 31, 2017, to purchase Manhattan apartment buildings owned by entities controlled by Sentinel. Plaintiffs alleged that defendants fraudulently represented that rent-stabilized units had been legally deregulated, when the deregulation had

allegedly been achieved through inflated renovation costs and other conduct by employees of Newcastle Realty Services. Two plaintiffs, EZ Wadsworth Partners LLC and BH 336 Partners LLC, obtained their contractual interests through assignments from affiliated purchasers rather than by contracting directly with defendants.

PROCEDURAL HISTORY

The Supreme Court, New York County, denied defendants Sentinel Real Estate Corporation and GRF I Manager Corp.'s motion to dismiss. The Appellate Division modified the order to dismiss as time-barred all claims except those asserted by EZ Wadsworth Partners LLC and BH 336 Partners LLC, and otherwise affirmed.

DISPOSITION

other

CASES CITED

- Aozora Bank, Ltd. v. Credit Suisse Group, 144 A.D.3d 437, 437-440 (1st Dep't 2016), lv. denied, 28 N.Y.3d 914 (2017)
- Commonwealth of Pennsylvania Public School Employees' Retirement System v. Morgan Stanley & Co., Inc., 25 N.Y.3d 543, 550, 552 (2015)
- Banque Arabe, 57 F.3d 146, 151-153 (2d Cir. 1995)
- International Design Concepts, LLC v. Saks Inc., 486 F. Supp. 2d 229 (S.D.N.Y. 2007)
- North Fork Bank v. Cohen & Krassner, 44 A.D.3d 375, 375 (1st Dep't 2007)
- Dexia SA/NV v. Stanley, 132 A.D.3d 497, 497 (1st Dep't 2016), lv. denied, 28 N.Y.3d 903 (2016)
- Royal Park Sealink Funding Ltd. v. Morgan Stanley, 133 A.D.3d 458 (1st Dep't 2015), lv. denied, 32 N.Y.3d 1143 (2019)
- Basis Yield Alpha Fund (Master) v. Goldman Sachs Group, Inc., 115 A.D.3d 128, 137 (1st Dep't 2014)
- People v. David Drumheller

OPINION

PER CURIAM.

BH 336 Partners LLC v Sentinel Real Estate Corp. (2026 NY Slip Op 00305) BH 336 Partners LLC v Sentinel Real Estate Corp. 2026 NY Slip Op 00305 Decided on January 22, 2026 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided and Entered: January 22, 2026 Before: Manzanet-Daniels, J.P., Webber, Friedman, González, Michael, JJ. Index No. 653867/23|Appeal No. 5646|Case No. 2025-02914| [*1]BH 336 Partners LLC, et al., Plaintiffs-Respondents, v Sentinel Real Estate Corporation, et al.,

Defendants-Appellants, Newcastle Realty Services, LLC, et al., Defendants. Davis Polk & Wardwell LLP, New York (Antonio J. Perez-Marques of counsel), for appellants.

Herrick Feinstein LLP, New York (Leah Kelman of counsel), for respondents. Order, Supreme Court, New York County (Lori G. Sattler, J.), entered April 10, 2025, which, to the extent appealed from as limited by the briefs, denied the motion of defendants Sentinel Real Estate Corporation and GRF I Manager Corp. to dismiss the complaint pursuant to CPLR 3211(a)(1), (3), (5), and (7), unanimously modified, on the law, to dismiss all claims as time-barred except for those asserted by plaintiffs EZ Wadsworth Partners LLC and BH 336 Partners LLC, and otherwise affirmed, without costs.

Plaintiffs' claims, other than those of plaintiffs EZ Wadsworth Partners LLC and BH 336 Partners LLC, are untimely. Plaintiffs allege that they and their affiliates were fraudulently induced into entering into five contracts with defendants between December 18, 2015 and May 31, 2017, to purchase apartment buildings in Manhattan owned by entities controlled by Sentinel.

Plaintiffs allege that defendants falsely stated that many of the rent-stabilized units in these apartment buildings had been legally deregulated when in fact the deregulation of the apartment had been illegally effected by employees of the buildings' manager, defendant Newcastle Realty Services, LLC. Except for the buildings purchased by EZ Wadsworth and BH 336, the contract of sale for each building was executed on or before August 26, 2016, more than six years — including the days tolled as a result of the 2020 COVID-related executive orders — before plaintiffs brought this action on August 9, 2023 (see CPLR 213[8]).

The time-barred plaintiffs also cannot rely on their lack of awareness of the fraud to take advantage of the two-year discovery period under CPLR 213(8), as they were placed on inquiry notice no later than June 20, 2019, when the Office of the New York Attorney General forwarded their attorneys a copy of a complaint in *People v David Drumheller*.

The complaint alleged that David Drumheller, an employee of Newcastle, along with contractors and other Newcastle employees, artificially inflated the renovation costs of various units in apartment buildings throughout New York City owned by Sentinel affiliates. According to that complaint, Drumheller did so to fraudulently deregulate the units.

Although the complaint mentioned only one of the buildings plaintiffs purchased in passing, the complaint otherwise stated that Newcastle managed 2,500 apartments; that Drumheller was critical to Newcastle's practice of deregulating rent-stabilized units; and that Drumheller caused hundreds of such units to be fraudulently deregulated.

Thus, plaintiffs' awareness of the possibility of the fraudulent scheme involving buildings they purchased from Sentinel-controlled entities placed on plaintiffs a duty to investigate the fraud, even if plaintiffs had no reason at the time to believe that Sentinel or Newcastle was involved (see

Aozora Bank, Ltd. v Credit Suisse Group, 144 AD3d 437, 437-440 [1st Dept 2016], lv denied 28 NY3d 914 [2017]).

Plaintiffs did not engage in such an investigation. However, the Supreme Court was correct in holding that defendants did not meet their burden on a motion to dismiss to establish that the remaining plaintiffs lacked standing. EZ Wadsworth Partners LLC and BH 336 Partners LLC (the assignee plaintiffs) did not enter contracts directly with the defendants. Instead, the assignee plaintiffs' affiliates, mainly nonparties Heritage Realty LLC and Aryeh Family Holdings LLC, contracted to purchase the buildings from defendants.

Heritage and Aryeh then assigned their contracts to the assignee plaintiffs. As the Supreme Court found, the parties to the original purchase contracts specifically contemplated that the assignment would be a part of the transaction, and the assignments were broadly worded to convey "all... right, title and interest" of the purchasers in the respective purchase contracts.

A factfinder could find the requisite intent to transfer fraud claims under these circumstances. "[T]he right to assert a fraud claim related to a contract or note does not automatically transfer with the respective contract or note" (Commonwealth of Pennsylvania Pub. Sch. Employees' Retirement Sys. v Morgan Stanley & Co., Inc., 25 NY3d 543, 550 [2015]). "Thus, where an assignment of fraud or other tort claims is intended in conjunction with the conveyance of a contract or note, there must be some language—although no specific words are required—that evinces that intent and effectuates the transfer of such rights" (id.).

In the presence of sufficiently broad assignment language, courts are permitted to assess the circumstances of the surrounding assignment to discern if the parties intended to transfer fraud claims (id. at 552). Other courts have considered the surrounding circumstances in determining whether the parties intended to assign claims of fraud.

In Banque Arabe, 57 F3d 146, 151-153 [2d Cir 1995], for example, the Second Circuit held that a recitation in an assignment agreement transferring "all of [the predecessor party's] rights, title and interest" in a "transaction" was sufficient to transfer a fraud claim upon analyzing the underlying circumstances (see also International Design Concepts, LLC v Saks Inc., 486 F Supp 2d 229 [SD NY 2007][finding tort claims assigned when the language assigned "all assets... without limitation"]).

The Commonwealth of Pennsylvania Court analyzed these cases, noting that the assignments were made in contemplation of the assignor's dissolution (in Banque) or where the assignor was already defunct (in Internationale), compelling the conclusion that the assignors had intended to assign their respective tort claims.

The assigning language in this case was also sufficiently broad to create a factual issue surrounding the parties' intent under these circumstances. This Court has found that "all of [the

predecessor party's] right, title and interest in and to" a mortgage may be sufficient to transfer a fraud claim (*North Fork Bank v Cohen & Krassner*, 44 AD3d 375, 375 [1st Dept 2007]).

While this Court has held in other contexts that fraud claims would not be assigned in the presence of similar contractual assignment language (see, e.g., *Dexia SA/NV v Stanley*, 132 AD3d 497, 497 [1st Dept 2016], lv denied 28 NY3d 903 [2016]; *Royal Park Sealink Funding Ltd. v Morgan Stanley*, 133 AD3d 458 [1st Dept 2015], lv denied 32 NY3d 1143 [2019]), these cases did not involve a situation like here, where it is alleged that the original purchasers were, in effect, the same as the assignee plaintiffs, with the same person signing on behalf of the purchaser-assignors and the assignees.

Instead, *Dexia* and *Royal Park* deal with the post-facto assignment of rights under a contract entered into between the assignee and a third party, where the intention of the assignor would be more difficult to discern.

Finally, plaintiffs did not disclaim reliance based on the general disclaimer included in the contract, which made no mention "to the particular type of fact misrepresented or undisclosed," which were "peculiarly within the seller's knowledge" (*Basis Yield Alpha Fund [Master] v Goldman Sachs Group, Inc.*, 115 AD3d 128, 137 [1st Dept 2014]). THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: January 22, 2026

PER CURIAM.

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