

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Olowofela v. Olowofela

2022 NY Slip Op 02424 (App. Div. 2022) · No. 2019-10150; 2020-01107 · Decided April 13, 2022

SUMMARY

The Appellate Division, Second Department, reversed an order granting summary judgment to 1822 Nostrand Realty, LLC, on claims seeking to set aside an allegedly forged deed or impose a constructive trust. The court held that the intervenor-defendant did not establish the defense of laches as a matter of law because the plaintiffs' evidence raised an issue regarding when they learned of the allegedly forged deed and showed that they asserted their claim before the property's sale. The appeal from a subsequent order denying a stay was dismissed as academic.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Per Curiam; Hector D. LaSalle, P.J.; Francesca E. Connolly, J.; Angela G. Iannacci, J.; Paul Wooten, J.
JURISDICTION	New York
DECIDED	April 13, 2022
DOCKET	2019-10150; 2020-01107
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiffs appealed from an order granting the intervenor-defendant's motion for summary judgment based on laches and dismissing claims seeking to set aside an allegedly forged deed or impose a constructive trust, and from a subsequent order denying a stay pending appeal.
STANDARD OF REVIEW	The Appellate Division reviewed the summary-judgment determination to determine whether the movant established entitlement to judgment as a matter of law. The court also applied the rule that summary judgment must be denied regardless of the sufficiency of the opposing papers when the movant fails to meet its prima facie burden.
PRECEDENTIAL VALUE	published and precedential

PARTIES

Segun Olowofela, et al. v. Godfrey Olowofela, et al., 1822 Nostrand Realty, LLC, intervenor-defendant-respondent

TOPICS

deeds constructive trust summary judgment appellate procedure remedies

PRACTICE AREAS

real estate civil procedure appellate procedure equitable remedies

QUESTIONS PRESENTED

1. Whether 1822 Nostrand Realty, LLC established as a matter of law that laches barred the plaintiffs' claims to set aside the allegedly forged deed or impose a constructive trust.
2. Whether the appeal from the order denying the plaintiffs' CPLR 5519(c) motion for a stay remained justiciable after the stay was granted.

HOLDINGS

1. The intervenor-defendant was not entitled to summary judgment on laches grounds because it failed to make a prima facie showing that the plaintiffs inexcusably delayed asserting their claim to the property.
2. The appeal from the order denying the CPLR 5519(c) stay was dismissed as academic because the Appellate Division had already granted the requested stay.

KEY QUOTATIONS

*“The essence of the equitable defense of laches is prejudicial delay in the assertion of rights” (*2)*

*“Indeed, the plaintiffs made Godfrey aware of their claim to the property prior to the sale to Realty LLC.” (*2)*

FACTUAL BACKGROUND

A 2009 deed purported to convey, for no consideration, property at 1822 Nostrand Avenue, Brooklyn, from Segun Olowofela and his father, Godfrey Olowofela, to Godfrey alone. Godfrey later sold the property to intervenor-defendant 1822 Nostrand Realty, LLC. The plaintiffs alleged that Godfrey forged Segun's signature and asserted that they first learned of the allegedly forged deed at a time that, together with their communications to Godfrey before the sale, made the timeliness of their claim a disputed issue.

PROCEDURAL HISTORY

The plaintiffs commenced an action seeking, among other relief, to set aside a 2009 deed or impose a constructive trust on property at 1822 Nostrand Avenue, Brooklyn. The Supreme Court, Queens County, granted 1822 Nostrand Realty, LLC's motion for summary judgment dismissing those claims on laches grounds and later denied the plaintiffs' CPLR 5519(c) motion for a stay. The Appellate Division reversed the summary-judgment

order insofar as appealed from and dismissed the appeal from the stay order as academic because the stay had already been granted.

DISPOSITION

reversed

CASES CITED

- Stein v Doukas, 98 AD3d 1026, 1028
- Matter of Schulz v State of New York, 81 NY2d 336, 348
- Kraker v Roll, 100 AD2d 424, 432-433
- Bank of Am., N.A. v 414 Midland Ave. Assoc., LLC, 78 AD3d 746, 750
- Faison v Lewis, 25 NY3d 220, 230 n 5
- Winegrad v New York Univ. Med. Ctr., 64 NY2d 851, 853

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