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

Westpoint Home, LLC v. Dormify, Inc.

2026 NY Slip Op 01625 (N.Y. Ct. App. 2026) · No. Index No. 654611/22; Appeal No. 6141; Case No. 2024-07108 · Decided March 19, 2026

SUMMARY

The New York Appellate Division, First Department unanimously affirmed dismissal of Westpoint Home's fraudulent conveyance claims arising from an Article 9 foreclosure and subsequent transfer of assets. The court held that the New Jersey Uniform Voidable Transactions Act's safe harbor applied, that several defendants were not proper transferees or beneficiaries, and that the documentary evidence refuted the plaintiff's allegations and rendered further discovery futile.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Scarpulla, J.P.; Kapnick, J.; Pitt-Burke, J.; Michael, J.; Hagler, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	March 19, 2026
DOCKET	Index No. 654611/22; Appeal No. 6141; Case No. 2024-07108
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from an order of Supreme Court, New York County, granting several defendants' motions to dismiss the amended complaint under CPLR 3211(a)(1) and (7), limited to the dismissal of plaintiff's fraudulent-conveyance cause of action.
STANDARD OF REVIEW	On a CPLR 3211(a)(1) motion, documentary evidence must conclusively establish a defense to the claims as a matter of law; on a CPLR 3211(a)(7) motion, the allegations are accepted as true and accorded every favorable inference, but documentary evidence that directly contradicts the allegations may warrant dismissal.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Westpoint Home, LLC v. Quadrant Management Inc., Alan Quasha, Clerisy Global Capital Management, LP, Lisa Myers

TOPICS

commercial litigation | uniform commercial code | motions to dismiss | civil procedure | appellate procedure

PRACTICE AREAS

commercial litigation | fraudulent conveyance | secured transactions | civil procedure | appellate procedure

QUESTIONS PRESENTED

1. Whether Supreme Court properly dismissed Westpoint's fraudulent-transfer claim under the New Jersey Uniform Voidable Transactions Act.
2. Whether the NJUVTA safe-harbor provision barred the intentional fraudulent-transfer claim because the transfer occurred in connection with a UCC article 9 foreclosure.
3. Whether defendants other than OCMA and Dormify could be liable under the NJUVTA as transferees, immediate transferees, or beneficiaries.
4. Whether the foreclosure and sale agreement was documentary evidence conclusively refuting plaintiff's allegation that the transaction was a sham.
5. Whether the common-law fraudulent-conveyance claim was adequately pleaded.
6. Whether plaintiff was entitled to further discovery before dismissal.

HOLDINGS

1. The dismissal of the fraudulent-transfer claim against Dormify, Quadrant, and OCMA was proper because plaintiff's opposition did not address whether it had adequately pleaded the necessary elements of that claim.
2. The NJUVTA intentional-fraudulent-transfer claim was barred by the statute's safe-harbor provision because the transfer was made in connection with a UCC article 9 foreclosure of secured lenders' interests in the assets.
3. Defendants other than OCMA and Dormify could not be held liable under the NJUVTA because they were neither transferees nor immediate transferees and were not beneficiaries of the transfer.
4. Although plaintiff preserved its argument that the foreclosure and sale agreement was a sham, the agreement itself constituted documentary evidence sufficient to refute that contention.
5. The common-law fraudulent-conveyance claim was properly dismissed because plaintiff failed to allege that the transfer placed assets beyond its reach that otherwise would have been available to satisfy its claim.
6. The denial of plaintiff's request for further discovery was proper because the amended-complaint allegations were directly contradicted by documentary evidence and additional discovery would have been futile.

FACTUAL BACKGROUND

Westpoint Home was an unsecured creditor of On Campus Marketing, LLC, which owed Westpoint approximately $3.1 million and owed secured creditors approximately $60 million while experiencing serious financial difficulties. Under a September 16, 2022 foreclosure and sale agreement, OCM's secured lenders foreclosed on its assets and sold them to OCMA for approximately $6 million pursuant to UCC article 9. Three days later, OCMA merged with Dormify, and Westpoint alleged that Quadrant, Alan Quasha, Clerisy, and Lisa Myers orchestrated a transfer of virtually all of OCM's assets for inadequate consideration.

PROCEDURAL HISTORY

Westpoint Home, an unsecured creditor of On Campus Marketing, LLC, asserted fraudulent-transfer claims arising from a foreclosure sale of OCM's assets and a subsequent merger involving Dormify, Inc. Supreme Court dismissed the challenged claim against the moving defendants under CPLR 3211(a)(1) and (7) and denied further discovery. The Appellate Division unanimously affirmed with costs.

DISPOSITION

affirmed

CASES CITED

- Butler v. City of New York, 202 A.D.3d 471, 472 (1st Dep't 2022)
- Oracle Am., Inc. v. Appleby, 2016 WL 5339799, at *9, 2016 U.S. Dist. LEXIS 130679, at *27-28 (N.D. Cal. Sept. 22, 2016) (No. 16-cv-02090-JST)
- Vanship Holdings Ltd. v. Energy Infrastructure Acquisition Corp., 65 A.D.3d 405, 408 (1st Dep't 2009)
- Underwood v. Urban Homesteading Assistance (U-HAB), Inc., 191 A.D.3d 550, 552 (1st Dep't 2021)
- Nissan Motor Acceptance Corp. v. Infiniti of Englewood, LLC, 2023 WL 4197143, at *8 (D.N.J. June 26, 2023) (No. 18CV17228 (EP) (MAH))

OPINION

PER CURIAM.

Westpoint Home, LLC v Dormify, Inc. (2026 NY Slip Op 01625) Westpoint Home, LLC v Dormify, Inc. 2026 NY Slip Op 01625 Decided on March 19, 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: March 19, 2026 Before: Scarpulla, J.P., Kapnick, Pitt-Burke, Michael, Hagler, JJ. Index No. 654611/22|Appeal No. 6141|Case No. 2024-07108| [*1]Westpoint Home, LLC, Plaintiff-Appellant, v Dormify, Inc., et al., Defendants, Quadrant Management Inc., et al., Defendants-Respondents. Law Office of Robert R. Viducich, New York (Robert R. Viducich of counsel), for appellant.

Mintz & Gold LLP, New York (Terrance W. McCormick of counsel), for Clerisy Global Capital Management, LP and Lisa Myers, respondents. Wuersch Gering LLP, New York (Ramsha Ansari of counsel), for Quadrant Management Inc. and Alan Quasna, respondents. Order, Supreme Court, New York (Andrea Masley, J.), entered on or about October 15, 2024, which, to the extent appealed from as limited by the briefs, granted the motion of defendants Quadrant Management Inc. (Quadrant) and OCM Acquisition Corp. (OCMA), the motion of defendant Alan Quasha, and the motion of defendants Clerisy Global Capital Management, LP (Clerisy), and Lisa Myers, all to dismiss the amended complaint pursuant to CPLR 3211(a)(1) and (7), unanimously affirmed, with costs.

The sole issue on this appeal is whether the motion court properly dismissed plaintiff's cause of action for fraudulent conveyance against all defendants. Plaintiff is a textile manufacturer and unsecured creditor of defendant On Campus Marketing, LLC (OCM) [FN1], an online retail business for university-approved merchandise.

In 2021, OCM was facing grave financial difficulties. It owed $60 million to secured creditors and began to default on those loans. At that time, OCM also owed plaintiff $3.1 million in unpaid purchase orders. Plaintiff alleges that defendants Quadrant, Quasha, Clerisy and Myers orchestrated a scheme to obtain OCM's assets through a shell company, defendant OCMA, without sufficient consideration.

Pursuant to a foreclosure and sale agreement (the FSA) dated September 16, 2022, OCM's secured lenders foreclosed on OCM's assets and sold them to defendant OCMA for almost $6 million pursuant to Article 9 of the UCC. OCMA is a holding company that was formed by Quadrant, an investment management firm, to purchase OCM. Quadrant's CEO is Quasha. Three days after the FSA was executed, OCMA merged with defendant Dormify, Inc. (Dormify) [FN2].

Clerisy, a private equity fund, owns a controlling interest in Dormify, and its founder and managing partner is defendant Lisa Myers. Plaintiff asserts that these actions caused OCM to fraudulently transfer to Dormify virtually all of OCM's assets in violation of the New Jersey Uniform Voidable Transactions Act (NJ Stat Ann §§ 25:2-20 et seq.) (NJUVTA).

The motion court providently dismissed the fraudulent transfer claim against defendants Dormify, Quadrant, and OCMA because plaintiff's opposition to defendants' motion to dismiss did not address whether it adequately pleaded the necessary elements to support that claim (see Butler v City of NY, 202 AD3d 471, 472 [1st Dept 2022]).

In any event, plaintiff's claim that all defendants engaged in an intentional fraudulent asset transfer under the NJUVTA is barred by the NJUVTA's safe harbor provision. Defendants established through documentary evidence that the transfer was made in connection with a Uniform

Commercial Code article 9 foreclosure of secured lenders' interests in the assets (see NJ Stat Ann § 25:2-30[e][2]).

Further, because defendants, other than OCMA and Dormify, were neither transferees nor immediate transferees of OCM, they could not be held liable under the NJUVTA (NJ Stat Ann § 25:2-30.b [1] [a], [b]). Nor were those defendants "beneficiaries" of the transfer, as they neither owned the debtor nor forced the transfer (see e.g. Oracle Am., Inc. v Appleby, 2016 WL 5339799, *9, 2016 US Dist LEXIS 130679, *27-28 [ND Cal Sept.

22, 2016, No. 16-cv-02090-JST]). Plaintiff adequately preserved its argument that the FSA was a sham (see Vanship Holdings Ltd. v Energy Infrastructure Acquisition Corp., 65 AD3d 405, 408 [1st Dept 2009]). Nonetheless, the FSA itself constitutes documentary evidence sufficient to refute plaintiff's contention because under the FSA all of the assets of defendant OCM, including its contracts were assigned, even if the assignment of many of those contracts were subject to third-party approval (see Underwood v Urban Homesteading Assistance (U-HAB), Inc., 191 AD3d 550, 552 [1st Dept 2021]).

Plaintiff's common-law fraudulent conveyance claim was properly dismissed as it failed to allege that the transfer would place assets beyond its reach that would otherwise have been available to it (see Nissan Motor Acceptance Corp. v Infiniti of Englewood, LLC, 2023 WL 4197143, *8, [D NJ June 26, 2023, No. 18CV17228 (EP) (MAH)]. Plaintiff was an unsecured creditor of a company with $60 million in secured debt outstanding to creditors, and with assets valued at only $6 million.

Finally, the court properly denied plaintiff's request for further discovery. Even considering the allegations in the amended complaint in the light most favorable to plaintiff, they are directly contradicted by the documentary evidence, such that any further discovery would be futile. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: March 19, 2026 Footnotes Footnote 1: Defendant OCM has not appeared in the action. Footnote 2: Plaintiff is not appealing the motion court's order with respect to Dormify because it filed for chapter 11 bankruptcy protection in the Bankruptcy Court for the District of Delaware.