

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

Jaber v. Elayyan

Jaber, 2026 N.Y. Slip Op. 02253 (Supreme Court of the State of New York Appellate Division Second Department 2026) · No. 2022-08061 · Decided April 15, 2026

SUMMARY

The Appellate Division, Second Department affirmed a judgment imposing a constructive trust on Staten Island real property in favor of the plaintiff and declaring the plaintiff its owner. The court held that the plaintiff established the elements of a constructive trust by clear and convincing evidence and deferred to the trial court's credibility determinations. It also rejected challenges concerning evidentiary rulings, the unclean-hands doctrine, and issues previously raised in appeals dismissed for failure to perfect.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                        |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of New York, Appellate Division, Second Department                                                                                                                                                                                          |
| WRITING FOR THE COURT | Hector D. Lasalle, P.J.; Francesca E. Connolly, J.; Lourdes M. Ventura, J.; Elena Goldberg Velazquez, J.                                                                                                                                                               |
| JURISDICTION          | Supreme Court of the State of New York, Appellate Division, Second Department                                                                                                                                                                                          |
| DECIDED               | April 15, 2026                                                                                                                                                                                                                                                         |
| DOCKET                | 2022-08061                                                                                                                                                                                                                                                             |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                               |
| PROCEDURAL POSTURE    | Munzer Elayyan appealed from a judgment entered after a nonjury trial that imposed a constructive trust in favor of Juber Jaber on a parcel of real property and declared Jaber the property's owner.                                                                  |
| STANDARD OF REVIEW    | On review of a determination after a nonjury trial, the Appellate Division's authority is as broad as that of the trial court and it may render the judgment warranted by the facts, while deferring to credibility determinations based largely on witness testimony. |
| PRECEDENTIAL VALUE    | published                                                                                                                                                                                                                                                              |

## PARTIES

Munzer Elayyan v. Juber Jaber, Farhoud Jaber, nominal defendant-respondent, 12 Whitwell Realty Corp., nominal defendant

## TOPICS

constructive trust   declaratory judgment   equitable relief   real estate   appellate procedure

## PRACTICE AREAS

real estate   equity   civil litigation   appellate practice

## QUESTIONS PRESENTED

1. Whether the trial court properly imposed a constructive trust and declared Jaber the owner of the property.
2. Whether the Appellate Division should consider issues raised or potentially raisable in earlier appeals dismissed for failure to perfect.
3. Whether the trial court improperly precluded testimony and evidence, and whether any evidentiary error was harmless.
4. Whether the doctrine of unclean hands barred Jaber from obtaining equitable relief.

## HOLDINGS

1. The trial court properly determined that Jaber established by clear and convincing evidence the necessary basis for imposing a constructive trust, and the judgment declaring Jaber the owner of the property was affirmed.
2. The court declined to exercise its inherent discretion to consider issues that were raised or could have been raised in earlier appeals dismissed for failure to perfect.
3. The trial court did not err in precluding the challenged testimony and evidence; alternatively, any error was harmless because the excluded material would not have had a substantial influence on the result.
4. Elayyan failed to establish that the unclean-hands doctrine barred Jaber from obtaining equitable relief.

## KEY QUOTATIONS

*“In reviewing a determination made after a nonjury trial, this Court's authority is as broad as that of the trial court, and this Court may render the judgment it finds warranted by the facts, taking into consideration that in a close case the trial court had the advantage of seeing and hearing the witnesses”* ([\*1])

*“The elements of a constructive trust are (1) a fiduciary or confidential relationship; (2) an express or implied promise; (3) a transfer in reliance on the promise; and (4) unjust enrichment”* ([\*1])

*“Thus, although the elements of a constructive trust must be proved by clear and convincing evidence, the constructive trust doctrine is given broad scope to respond to all human implications of a transaction in order to give expression to the conscience of equity and to satisfy the demands of justice”* ([\*1])

*“The doctrine of unclean hands applies when the complaining party shows that the offending party is guilty of immoral, unconscionable conduct and even then only when the conduct relied on is directly related to the subject matter in litigation and the party seeking to invoke the doctrine was injured by such conduct” ([\*2])*

## FACTUAL BACKGROUND

Jaber alleged that he and his cousin, real estate developer Munzer Elayyan, agreed to form 12 Whitwell Realty Corp. to hold legal title to a Staten Island property, with Jaber as the equitable owner and residing occupant. Elayyan allegedly provided funds for the corporation's purchase of the property, with title to be transferred to Jaber after repayment. The corporation purchased the property in 2012; Jaber alleged that he made improvements, paid taxes and insurance, and lived there before Elayyan evicted him in 2017 after Jaber had repaid the funds.

## PROCEDURAL HISTORY

Jaber commenced the action in 2017 seeking, among other relief, imposition of a constructive trust and a declaration that he was the equitable owner of the property. After a nonjury trial, the Supreme Court, Richmond County, found that Jaber established the elements of a constructive trust by clear and convincing evidence and entered judgment imposing the trust and declaring Jaber the owner. Elayyan appealed; the Appellate Division affirmed. The court also declined to consider issues from earlier appeals that had been dismissed for failure to perfect.

## DISPOSITION

affirmed

## CASES CITED

- Jaber v Elayyan, 191 AD3d 964, 965
- Jaber v Elayyan, 168 AD3d 693, 694
- US Bank N.A. v Conroy, 160 AD3d 785, 786
- Bray v Cox, 38 NY2d 350
- Toobian v Golzad, 193 AD3d 784, 785
- Creamer v DaCruz, 185 AD3d 547, 547
- Ali v Rahaman, 224 AD3d 721, 722
- Diaz v Diaz, 130 AD3d 560, 561-562
- Marini v Lombardo, 79 AD3d 932, 933
- Kaprov v Stalinsky, 145 AD3d 869, 871-872
- Ning Xiang Liu v Al Ming Chen, 133 AD3d 644, 645
- Matter of Berk, 209 AD3d 1014, 1017
- Sattar v City of New York, 201 AD3d 756, 757
- Division Seven, Inc. v HP Bldrs. Corp., 58 AD3d 796, 797

- Citimortgage, Inc. v Heyman, 186 AD3d 1487, 1488-1489

---

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/supreme-court-of-the-state-of-new-york-appellate-division-second-department-supreme-court-of-the-sta/2026/jaber-v-elayyan-gi48egq0>