

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

Blue Casa LLC v. Menn

2026 NY Slip Op 03713 · No. CV-24-2042 · Decided June 11, 2026

SUMMARY

The Appellate Division, Third Department dismissed as moot an appeal concerning a dismissed action for specific performance of a real-property sale contract. The court held that the property had been sold to a nonparty, making specific performance impossible, and declined to sanction the plaintiff for filing a frivolous appeal.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Fisher, J.; Pritzker, J.P.; Ceresia, J.; McShan, J.; Corcoran, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Third Department
DECIDED	June 11, 2026
DOCKET	CV-24-2042
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff appealed from an order of Supreme Court that granted defendants' motion to dismiss the complaint in an action seeking specific performance of a real-estate sale contract. Before the appeal was perfected, defendants sold the property to a nonparty. The Appellate Division dismissed the appeal as moot and denied defendants' request for sanctions.
STANDARD OF REVIEW	An appeal is moot unless adjudication on the merits would result in immediate and practical consequences to the parties. The court also applied the standard governing sanctions for frivolous conduct under 22 NYCRR 130-1.1.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Blue Casa LLC v. Jeffrey Menn, et al.

TOPICS

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QUESTIONS PRESENTED

1. Whether the appeal from dismissal of an action seeking specific performance became moot after the subject property was sold to a nonparty and no stay preserved plaintiff's claim.
2. Whether defendants were entitled to sanctions on the ground that plaintiff's appeal was frivolous.

HOLDINGS

1. The appeal was moot because defendants no longer had title to convey and specific performance of the real-property sale contract was no longer possible; no exception to the mootness doctrine applied.
2. Sanctions were denied because defendants did not meet their burden of showing that plaintiff's appeal was completely without merit in law, undertaken to delay or prolong litigation, or based on false material facts.

KEY QUOTATIONS

“[T]he jurisdiction of this Court extends only to live controversies and, as such, an appeal will be considered moot unless an adjudication of the merits will result in immediate and practical consequences to the parties”
(*1)

“Defendants thus have no title to convey and specific performance of the contract for sale of the subject property is no longer possible” (*1)

FACTUAL BACKGROUND

In December 2023, the parties contracted for the sale of real property in Troy, New York, subject to a mortgage contingency clause permitting plaintiff to cancel by written notice if it could not obtain financing on specified terms. Plaintiff timely canceled after failing to obtain the required mortgage, later attempted to rescind the cancellation and proposed new financial terms, and sought specific performance when defendants refused to proceed with the sale. Before the appeal from dismissal of that action was perfected, defendants sold the property to a nonparty, and plaintiff's notice of pendency had already been canceled without a stay.

PROCEDURAL HISTORY

The parties entered into a contract for the sale of real property. After plaintiff was unable to obtain financing under the contract's mortgage contingency clause, plaintiff canceled the contract, later attempted to rescind the cancellation and proposed new financial terms, and then commenced an action for specific performance. Supreme Court granted defendants' motion to dismiss. While the appeal was pending, defendants sold the property to a third party, and the Appellate Division dismissed the appeal as moot.

DISPOSITION

dismissed

CASES CITED

- Matter of Sullivan Farms II, Inc. v. Town of Mamakating Planning Bd., 165 AD3d 1447, 1449 [3d Dept 2018]
- Govel v. Trustco Bank, 182 AD3d 838, 839-840 [3d Dept 2020]
- Hulett v. Korb, 243 AD3d 1136, 1138 [3d Dept 2025]
- Chateau Rive Corp. v. Enclave Dev. Assoc., 22 AD3d 445, 447 [2d Dept 2005]
- Chester Green Estates, LLC v. Arlington Chester, LLC, 211 AD3d 801, 804 [2d Dept 2022]
- Drake v. Friedenthal, 108 AD3d 910, 911 [3d Dept 2013]
- Gabriel v. Prime, 30 AD3d 955, 957 [3d Dept 2006]
- Real-X Realty, LLC v. Crest Bellport, LLC, 247 AD3d 944, 946 [2d Dept 2026]
- Deutsche Bank Natl. Trust Co. v. LeTennier, ___ AD3d ___, ___, 250 NYS3d 260, 266 [3d Dept 2026]
- LaBoy v. Diven, 244 AD3d 1201, 1204 [2d Dept 2025]
- Cancilla v. O'Rourke, 232 AD3d 1175, 1179 [2d Dept 2024]
- Wells v. Hodgkins, 150 AD3d 1449, 1452 [3d Dept 2017]

OPINION

Blue Casa LLC v. Menn 2026 NY Slip Op 03713

PER CURIAM.

Blue Casa LLC v Menn - 2026 NY Slip Op 03713 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions Blue Casa LLC v Menn 2026 NY Slip Op 03713 June 11, 2026 Appellate Division, Third Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. Blue Casa LLC, Appellant, v Jeffrey Menn et al., Respondents. Decided and Entered: June 11, 2026 CV-24-2042 Calendar Date: April 30, 2026 Before: Pritzker, J.P., Ceresia, Fisher, Mcshan And Corcoran, JJ. The Sgambettera Law Firm, Saratoga Springs (Matthew J. Sgambettera of counsel), for appellant. The West Firm, PLLC, Albany (Matthew W. Rimkunas of counsel), for respondents. [*1] Fisher, J. Appeal from an order of the Supreme Court (Richard McNally Jr., J.), entered September 30, 2024 in Rensselaer County, which partially granted defendants' motion to, among other things, dismiss the complaint. In December 2023, the parties entered into a contract for the sale of real property in the City of Troy, Rensselaer County. The contract for sale contained a mortgage contingency clause that allowed plaintiff to terminate the contract by written notice to defendants in the event plaintiff was unable to obtain a mortgage under specific terms. Plaintiff was ultimately unable to obtain a mortgage under the terms of the contract and timely sent a

written notice to defendants declaring the contract canceled pursuant to the mortgage contingency clause. Thereafter, plaintiff sent correspondence rescinding the cancellation and proposing new financial terms which, on the morning of the rescheduled closing, defendants claimed that they never accepted and refused to continue with the sale. Plaintiff then commenced this action seeking specific performance of the contract. Defendants moved to dismiss, arguing, among other things, that plaintiff failed to state a cause of action because the contract had not been revived and that the new terms proposed by plaintiff constituted a new contract that defendants never accepted. Supreme Court granted defendants' motion to dismiss the complaint. Plaintiff appeals. Defendants contend that the appeal is now moot because the subject property was sold to a third party before this appeal was perfected. We agree. "[T]he jurisdiction of this Court extends only to live controversies and, as such, an appeal will be considered moot unless an adjudication of the merits will result in immediate and practical consequences to the parties" (*Matter of Sullivan Farms II, Inc. v Town of Mamakating Planning Bd.* , 165 AD3d 1447 , 1449 [3d Dept 2018] [internal quotation marks and citations omitted]; accord *Govel v Trustco Bank* , 182 AD3d 838, 839-840 [3d Dept 2020]). To that point, we take judicial notice of the recorded deed from the Rensselaer County Clerk's office reflecting a sale of the subject property to a nonparty to this action (see *Hulett v Korb* , 243 AD3d 1136 , 1138 [3d Dept 2025]; *Chateau Rive Corp. v Enclave Dev. Assoc.* , 22 AD3d 445 , 447 [2d Dept 2005]). Plaintiff's notice of pendency was canceled before this sale occurred, and plaintiff did not seek a stay of said cancellation (see CPLR 5519 [c]). Defendants thus have no title to convey and specific performance of the contract for sale of the subject property is no longer possible (see *Chester Green Estates, LLC v Arlington Chester, LLC* , 211 AD3d 801, 804 [2d Dept 2022]). As plaintiff only sought specific performance and because the exception to the mootness doctrine does not apply here, we dismiss the appeal as moot (see *Drake v Friedenthal* , 108 AD3d 910, 911 [3d Dept 2013]; *Gabriel v Prime* , 30 AD3d 955, 957 [3d Dept 2006]; see also *Chester Green Estates, LLC v Arlington Chester* [*2] , LLC , 211 AD3d at 804 ; *Govel v Trustco Bank* , 182 AD3d at 840 ; compare *Real-X Realty, LLC v Crest Bellport, LLC* , 247 AD3d 944 , 946 [2d Dept 2026]). We further deny defendants' request to sanction plaintiff on the basis that its appeal is frivolous. Defendants did not meet their burden of showing that plaintiff's action is completely without merit in law, was undertaken to delay or prolong litigation or asserted false material facts (see 22 NYCRR 130-1.1 [c]; *Deutsche Bank Natl. Trust Co. v LeTennier* , ___ AD3d ___, ___, 250 NYS3d 260 , 266 [3d Dept 2026]; *LaBoy v Diven* , 244 AD3d 1201 , 1204 [2d Dept 2025]; *Cancilla v O'Rourke* , 232 AD3d 1175 , 1179 [3d Dept 2024]; *Wells v Hodgkins* , 150 AD3d 1449, 1452 [3d Dept 2017]). The parties' remaining contentions have been considered and found to be without merit or rendered academic. Pritzker, J.P., McShan and Corcoran, JJ., concur. Ceresia, J., not taking part. ORDERED that the appeal is dismissed, as moot, with costs. Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the

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