

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

Liu v. Carrion

Liu, 2026 NY Slip Op 01953 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2023-10557 · Decided April 1, 2026

SUMMARY

The Appellate Division, Second Department, affirmed dismissal of the plaintiffs’ complaint challenging a New York City Department of Housing Preservation and Development lien for relocation expenses. The court held that, absent a defect on the face of the lien notice, the lien’s validity must be adjudicated in a foreclosure proceeding rather than through the plaintiffs’ direct action.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Betsy Barros, J.P.; Barry E. Warhit, J.; Carl J. Landicino, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	April 1, 2026
DOCKET	2023-10557
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from an order granting defendants' motion under CPLR 3211(a)(7) to dismiss an action challenging the validity and enforceability of a lien placed on plaintiffs' property by the New York City Department of Housing Preservation and Development.
STANDARD OF REVIEW	On a motion pursuant to CPLR 3211(a)(7), the court determines whether the pleading states a cognizable cause of action; the complaint is afforded a liberal construction and the facts alleged are accepted as true for purposes of the motion.
PRECEDENTIAL VALUE	Published

PARTIES

David Liu, et al. v. Adolfo Carrion, Jr., etc., et al., New York City
Department of Housing Preservation and Development

TOPICS

motions to dismiss real estate municipal law administrative law civil procedure

PRACTICE AREAS

civil procedure real estate municipal law administrative law

QUESTIONS PRESENTED

1. Whether plaintiffs could obtain dismissal of the lien-related action under CPLR 3211(a)(7) when the notice of lien contained no facial defect and the asserted dispute concerned the validity of the lien.
2. Whether the validity of the lien had to be resolved in a foreclosure proceeding rather than in the plaintiffs' pre-foreclosure declaratory and injunctive action.

HOLDINGS

1. When there is no defect on the face of a notice of lien, disputes regarding the lien's validity must await trial in a foreclosure proceeding; therefore, the complaint seeking a declaration invalidating the lien and enjoining its enforcement was properly dismissed under CPLR 3211(a)(7).

KEY QUOTATIONS

*"Where, as here, 'there [is] no defect upon the face of the notice of lien, any dispute regarding the validity of the lien must await trial thereof by foreclosure'" ([*1])*

FACTUAL BACKGROUND

On October 7, 2020, HPD filed a notice of lien against plaintiffs' property seeking \$73,287.89 for hotel or shelter expenses and administrative costs allegedly incurred in relocating displaced tenants. Plaintiffs contended that HPD lacked authority to impose the lien because the persons receiving relocation services were not tenants under Administrative Code § 26-305. Plaintiffs sought a declaration invalidating the lien and an injunction against its enforcement.

PROCEDURAL HISTORY

HPD filed a lien for hotel or shelter expenses and administrative costs allegedly incurred in providing relocation services for displaced tenants. Plaintiffs sued for a declaration that the lien was null and void and for injunctive relief, arguing that the occupants were not tenants within the meaning of the governing Administrative Code provisions. The Supreme Court, Kings County, granted defendants' CPLR 3211(a)(7) motion, and the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Retek v City of New York, 14 AD3d 708, 709
- Matter of Lowe, 4 AD3d 476, 476
- Rivera v Department of Hous. Preserv. & Dev. of the City of N.Y., 29 NY3d 45
- 2922 LLC v Been, 158 AD3d 428, 429

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