

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

People's United Bank v. Patio Gardens III, LLC

2020 NY Slip Op 08091 (N.Y. Ct. App. 2020) · No. 2019-10589 · Decided December 30, 2020

SUMMARY

In this mortgage foreclosure action, the Appellate Division, Second Department reversed an order and amended judgment awarding the plaintiff \$75,000 in unapportioned attorney's fees. The court held that the Supreme Court violated the law-of-the-case doctrine by failing to determine which fees were attributable to each property and that the plaintiff failed to establish the reasonableness of the fees requested.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	William F. Mastro, J.P.; Cheryl E. Chambers, J.; Angela G. Iannacci, J.; Linda Christopher, J.
JURISDICTION	New York
DECIDED	December 30, 2020
DOCKET	2019-10589
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from an order and amended judgment of foreclosure and sale awarding the plaintiff \$75,000 in unapportioned attorney's fees after a prior appellate remittitur for a new determination of the fee issue.
STANDARD OF REVIEW	Review was on the law and in the exercise of discretion; the court also applied the law of the case doctrine and reviewed whether the plaintiff met its burden of proving the reasonableness of the requested attorney's fees.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Patio Gardens III, LLC v. People's United Bank

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QUESTIONS PRESENTED

1. Whether the Supreme Court violated the law of the case doctrine by awarding attorney's fees without determining which fees related to each property.
2. Whether the plaintiff met its burden of proving the reasonableness of the requested attorney's fees.

HOLDINGS

1. The Supreme Court violated the law of the case doctrine by awarding attorney's fees without determining which fees were attributable to work performed to foreclose the mortgage related to each property.
2. The plaintiff failed to meet its burden of proving the reasonableness of the requested attorney's fees because it did not provide evidence showing which fees were attributable to each parcel.

KEY QUOTATIONS

“"[A]n appellate court's resolution of an issue on a prior appeal constitutes the law of the case and is binding on the Supreme Court, as well as on the appellate court"” ([*2])

FACTUAL BACKGROUND

People's United Bank brought an action to foreclose two mortgages involving two parcels of property owned by or associated with Patio Gardens III, LLC. The plaintiff sought attorney's fees, but its submission did not establish which fees were attributable to foreclosure work concerning each parcel. After a prior remittitur and a hearing, the Supreme Court awarded \$75,000 in fees without apportioning them between the properties.

PROCEDURAL HISTORY

In a foreclosure action involving two mortgages and two parcels, the Supreme Court, Suffolk County, awarded People's United Bank \$75,000 in attorney's fees without allocating the fees between the properties. On a prior appeal, the Appellate Division remitted for a more detailed fee submission and a determination of which fees were attributable to each parcel, with a hearing if necessary. After the Supreme Court again awarded unapportioned fees following a hearing, Patio Gardens appealed.

DISPOSITION

reversed

REMAND INSTRUCTIONS

None. The court directed that the branch of the plaintiff's motion seeking attorney's fees be denied.

CASES CITED

- Matter of 24 Franklin Ave. R.E. Corp. v. Heaship, 101 AD3d 1034, 1036
- J-Mar Serv. Ctr., Inc. v. Mahoney, Connor & Hussey, 45 AD3d 809, 809
- People's United Bank v. Patio Gardens III, LLC, 143 AD3d 689
- SO/Bluestar, LLC v. Canarsie Hotel Corp., 33 AD3d 986, 988
- Kamco Supply Corp. v. Annex Contr., 261 AD2d 363, 365

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