

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

Ventus Properties, LLC v. Mo Chae

Ventus Props., LLC v. Mo Chae, 2025 N.Y. Slip Op. 07429 (App. Div. 2025) · No. 2023-11338 · Decided
December 31, 2025

SUMMARY

The Appellate Division, Second Department, reversed an order directing entry of judgment in a mortgage foreclosure action against Mo Chae. The court held that the defendant was prejudiced by representation at trial by her nonlawyer husband under a power of attorney and that the Supreme Court improperly precluded her from testifying. The matter was remitted for a new trial on the plaintiff's standing and compliance with RPAPL 1304.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Valerie Brathwaite Nelson, J.P.; Paul Wooten, J.; Barry E. Warhit, J.; Lourdes M. Ventura, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	December 31, 2025
DOCKET	2023-11338
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Mo Chae appealed from an order entered after a nonjury foreclosure trial that directed entry of judgment for Ventus Properties, LLC and appointed a referee to determine, among other things, the amount due.
PRECEDENTIAL VALUE	published
PARTIES	Mo Chae v. Ventus Properties, LLC

TOPICS

- foreclosure
- mortgages
- appellate procedure
- civil procedure
- appellate jurisdiction

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Supreme Court erred by permitting Mo Chae to be represented at trial by her nonlawyer husband under a power of attorney.
2. Whether the Supreme Court erred by precluding Mo Chae from testifying at trial.
3. Whether the resulting prejudice required reversal and a new trial on the plaintiff's standing and compliance with RPAPL 1304.

HOLDINGS

1. A person who is not an admitted member of the Bar may not practice law on behalf of another in New York, and a power of attorney, including one granted to a spouse, does not authorize the agent to provide legal representation.
2. Representation by a person unauthorized to practice law does not automatically render all prior proceedings void; reversal is warranted when the unauthorized representation prejudiced the party.
3. The Supreme Court erred in precluding Mo Chae from testifying at trial and should have permitted her to participate either pro se or through appropriate counsel.

KEY QUOTATIONS

*“New York law prohibits the practice of law in this State on behalf of anyone other than himself or herself by a person who is not an admitted member of the Bar, regardless of the authority purportedly conferred by execution of a power of attorney” ([*1])*

*“The designation as an attorney-in-fact under General Obligations Law §§ 5-1502A-N does not confer upon a designated agent the right to provide representation as an attorney-at-law” ([*1]-[*2])*

*“As a general rule, the fact that a party has been represented by a person who was not authorized or admitted to practice law under the Judiciary Law—whether a disbarred attorney or a person practicing law without a license—does not create a 'nullity' or render all prior proceedings void per se” ([*2])*

FACTUAL BACKGROUND

This mortgage-foreclosure action was tried on the issues of the plaintiff's standing and compliance with RPAPL 1304. Mo Chae was represented at trial by her husband, John Chae, a nonlawyer holding a power of attorney. The Supreme Court prevented Mo Chae from testifying because her husband held the power of attorney, then found for the plaintiff and directed entry of judgment against her.

PROCEDURAL HISTORY

The plaintiff commenced a mortgage-foreclosure action against Mo Chae and others. The matter proceeded to a trial limited to the plaintiff's standing and compliance with RPAPL 1304. Mo Chae was represented by her nonlawyer husband, who held a power of attorney, and the Supreme Court precluded her from testifying. After finding for the plaintiff, the Supreme Court directed entry of judgment against Mo Chae. The Appellate Division

deemed the notice of appeal an application for leave to appeal, granted leave, reversed, and remitted for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter is remitted to the Supreme Court, Suffolk County, for a new trial limited to the issues of the plaintiff's standing and compliance with RPAPL 1304. Mo Chae must be permitted to participate either pro se or with appropriate counsel.

CASES CITED

- Discover Bank v. Gilliam, 199 A.D.3d 645, 646-647 (N.Y. App. Div. 2021)
- People ex rel. Field v. Cronshaw, 138 A.D.2d 765, 765 (N.Y. App. Div. 1988)
- Matter of Welsh [Commissioner of Labor], 51 A.D.3d 1351, 1352 (N.Y. App. Div. 2008)
- Whitehead v. Town House Equities, Ltd., 8 A.D.3d 369, 370 (N.Y. App. Div. 2004)
- Elm Mgt. Corp. v. Sprung, 33 A.D.3d 753, 754 (N.Y. App. Div. 2006)
- Stegemann v. Rensselaer County Sheriff's Off., 153 A.D.3d 1053, 1055 (N.Y. App. Div. 2017)
- Matter of Lackas, 65 A.D.2d 800 (N.Y. App. Div. 1978)

OPINION

PER CURIAM.

Ventus Props., LLC v Mo Chae (2025 NY Slip Op 07429) Ventus Props., LLC v Mo Chae 2025 NY Slip Op 07429 Decided on December 31, 2025 Appellate Division, Second 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 on December 31, 2025 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department VALERIE BRATHWAITE NELSON, J.P.

PAUL WOOTEN BARRY E. WARHIT LOURDES M. VENTURA, JJ. 2023-11338 (Index No. 608433/17) [*1]Ventus Properties, LLC, respondent, v Mo Chae, etc., appellant, et al., defendants. Schlissel DeCorpo, LLP, Lynbrook, NY (Elliot S. Schlissel of counsel), for appellant. DECISION & ORDER In an action to foreclose a mortgage, the defendant Mo Chae appeals from an order of the Supreme Court, Suffolk County (Paul M. Hensley, J.), dated June 21, 2023.

The order, after a nonjury trial, directed the entry of judgment on the complaint insofar as asserted against the defendant Mo Chae and appointed a referee to determine, inter alia, the amount due to the plaintiff. ORDERED that upon this Court's own motion, the notice of appeal from the order is

deemed to be an application for leave to appeal, and leave to appeal is granted (see CPLR 5701[c]); and it is further, ORDERED that the order is reversed, on the law, with costs, and the matter is remitted to the Supreme Court, Suffolk County, for a new trial on the issues of the plaintiff's standing and compliance with RPAPL 1304.

The plaintiff commenced this action to foreclose a mortgage against, among others, the defendant Mo Chae (hereinafter the defendant). The matter was subsequently set down for a trial limited to the issues of the plaintiff's standing and compliance with RPAPL 1304. At the trial, the defendant was represented by her husband, John Chae, a nonlawyer who held a power of attorney for the defendant.

The Supreme Court did not permit the defendant to testify at the trial due to the fact that her husband held a power of attorney. At the conclusion of the trial, the court found in favor of the plaintiff. By order dated June 21, 2023, the court directed the entry of judgment on the complaint insofar as asserted against the defendant and appointed a referee to determine, inter alia, the amount due to the plaintiff.

The defendant appeals. "'New York law prohibits the practice of law in this State on behalf of anyone other than himself or herself by a person who is not an admitted member of the Bar, regardless of the authority purportedly conferred by execution of a power of attorney'" (Discover Bank v Gilliam, 199 AD3d 645, 646, quoting People ex rel. Field v Cronshaw, 138 AD2d 765, 765; see Matter of Welsh [Commissioner of Labor], 51 AD3d 1351, 1352).

"The designation as an attorney-in-fact under General Obligations Law §§ 5-1502A-N does not confer upon a designated agent the right to provide representation as an attorney-at-law, and 'cannot be read to displace the provisions of Judiciary Law § 478'" (Discover Bank v Gilliam, 199 AD3d at 646-647, quoting Whitehead v Town House Equities, Ltd., 8 AD3d 369, 370).

In this case, none of the exceptions to Judiciary Law § 478 apply. Moreover, John [*2]Chae's marriage to the defendant did not permit him to appear pro se on her behalf (see Discover Bank v Gilliam, 199 AD3d at 647). "As a general rule, the fact that a party has been represented by a person who was not authorized or admitted to practice law under the Judiciary Law—whether a disbarred attorney or a person practicing law without a license—does not create a 'nullity' or render all prior proceedings void per se" (Elm Mgt.

Corp. v Sprung, 33 AD3d 753, 754; see Stegemann v Rensselaer County Sheriff's Off., 153 AD3d 1053, 1055). Here, however, the record demonstrates that the defendant was prejudiced as a result of being represented by an unauthorized attorney at the trial (see Matter of Lackas, 65 AD2d 800). Further, the Supreme Court erred in precluding the defendant from testifying at the trial (see CPLR 321[a]).

Under the circumstances of this case, the Supreme Court should not have directed the entry of judgment in favor of the plaintiff without permitting the defendant the opportunity to participate in the trial either pro se or with appropriate counsel (see *Discover Bank v Gilliam*, 199 AD3d at 647).

Accordingly, we remit the matter to the Supreme Court, Suffolk County, for a new trial on the issues of the plaintiff's standing and compliance with RPAPL 1304. BRATHWAITE NELSON, J.P., WOOTEN, WARHIT and VENTURA, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

PER CURIAM.

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