

**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.

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

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