

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

Chauhan v. AS Helios LLC

2021 NY Slip Op 01191 (N.Y. Ct. App. 2021) · No. Appeal No. 13215; Case No. 2020-01826; Index No. 156579/19 · Decided February 25, 2021

SUMMARY

The Appellate Division, First Department affirmed dismissal of the plaintiffs' claims against M&T Bank. It held that res judicata barred the claims because they arose from the same transaction and could have been litigated in a prior RPAPL article 15 quiet-title action, and the plaintiffs had a full and fair opportunity to litigate.

OPINION

PER CURIAM.

Chauhan v AS Helios LLC (2021 NY Slip Op 01191) Chauhan v AS Helios LLC 2021 NY Slip Op 01191 Decided on February 25, 2021 Appellate Division, First 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 and Entered: February 25, 2021 Before: Manzanet-Daniels, J.P., Kern, Kennedy, Scarpulla, JJ. Index No. 156579/19 Appeal No. 13215 Case No. 2020-01826 [*1]Pushpa Chauhan et al., Plaintiffs-Appellants, vAS Helios LLC et al., Defendants, M&T Bank Also Known as Manufacturers and Traders Trust Company, Defendant-Respondent.

Petroff Amshen LLP, Brooklyn (James Tierney of counsel), for appellant. Herrick, Feinstein LLP, New York (Elena T. McDermott of counsel), for respondent. Order, Supreme Court, New York County (Arlene P. Bluth, J.), entered on or about January 21, 2020, which granted defendant M&T Bank's motion to dismiss the complaint as against it, unanimously affirmed, without costs.

Plaintiffs' claims are barred by res judicata by the prior judgment granting defendant M&T's motion to quiet title under RPAPL article 15. These claims arose out of the same transaction between identical parties and could have been raised in the prior action (Platon v Linden-Marshall Contr. Inc., 176 AD3d 409, 410 [1st Dept 2019]). Plaintiffs, who had fully litigated the prior foreclosure action, and were properly and timely served with M&T's motion to quiet title, had a full and fair opportunity to litigate.

This is not altered by plaintiffs' tactical decision not to oppose the motion (id.). We have considered appellants' other arguments and find them unavailing.THIS CONSTITUTES THE

DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST
DEPARTMENT. ENTERED: February 25, 2021

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