NEW YORK COURT OF APPEALS

Pangea Capital Management, LLC v. John R. Lakian

2019 NY Slip Op 04745 (N.Y. 2019) (N.Y. Ct. App. 2019) · No. No. 53 · Decided June 25, 2019

SUMMARY

The New York Court of Appeals answered in the negative a certified question from the Second Circuit concerning whether a spouse’s equitable-distribution interest in real property is subject to attachment by a later judgment creditor when the divorce judgment was not docketed in the county where the property is located. The Court held that an entered divorce judgment distributing marital property does not make the former spouse a judgment creditor, so the docketing priority rules of CPLR 5203 did not apply. The Court did not answer the second certified question.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Wilson, J.; Chief Judge DiFiore; Judge Rivera; Judge Stein; Judge Fahey; Judge Garcia; Judge Feinman; Judge Wilson
JURISDICTION	New York
DECIDED	June 25, 2019
DOCKET	No. 53
DISPOSITION	other
PROCEDURAL POSTURE	The United States Court of Appeals for the Second Circuit certified a question of New York law to the New York Court of Appeals concerning the priority of an equitable distribution interest under an entered divorce judgment over a later-docketed judgment creditor's claim against real property.
STANDARD OF REVIEW	De novo interpretation of New York statutes and application of New York law to a certified question
PRECEDENTIAL VALUE	binding
PARTIES	Pangea Capital Management, LLC v. John R. Lakian

TOPICS

equitable distribution · divorce · real estate · statutory interpretation · appellate procedure

PRACTICE AREAS

family law · real estate · civil procedure · statutory interpretation · appellate procedure

QUESTIONS PRESENTED

1. Whether a spouse whose interest in real property is established by an entered judgment of divorce under Domestic Relations Law § 236 becomes a judgment creditor subject to the docketing and priority provisions of CPLR 5203 when the spouse does not docket the divorce judgment in the county where the property is located.
2. Whether CPLR 5203(c), enacted in response to Musso v. Ostashko, applies outside the context of a bankruptcy petition.

HOLDINGS

1. An entered judgment of divorce that equitably distributes marital property does not transform one former spouse into a judgment creditor of the other. Accordingly, the spouse's interest is not subject to attachment priority under CPLR 5203(a) merely because the divorce judgment was not docketed in the county where the property is located.
2. CPLR 5203(c) addresses priority against a judicial lien created by the filing of a bankruptcy petition and does not apply to the nonbankruptcy dispute between Pangea and Andrea.

KEY QUOTATIONS

> *"We answer that question in the negative."* (-2-)

> *"Marital assets are not owned by one spouse or another, and the dissolution of a marriage involving the division of marital assets does not render one ex-spouse the creditor of another."* (-6-)

> *"Because the judgment of divorce did not render Andrea a judgment creditor of John (likewise, it did not render John a judgment creditor of Andrea), Andrea was not subject to the docketing requirements of CPLR 5203."* (-10-)

FACTUAL BACKGROUND

John and Andrea Lakian acquired a Shelter Island home during their marriage, with title placed in a trust in which each spouse held a 50% beneficial interest. Their 2015 judgment of divorce incorporated a settlement providing that Andrea would receive 62.5% of the property's sale proceeds plus $75,000. Pangea, John's former employer, obtained a $14 million arbitral award and federal judgment against John and sought priority over Andrea's share because Pangea docketed its judgment in Suffolk County before Andrea docketed the divorce judgment there.

PROCEDURAL HISTORY

Andrea Lakian commenced a divorce action in New York County, and the divorce judgment entered in 2015 incorporated a settlement distributing the proceeds from the sale of marital real property. Pangea later obtained and docketed a federal judgment enforcing a $14 million arbitral award against John Lakian and asserted priority over Andrea's share of the sale proceeds under CPLR 5203. The federal district court rejected Pangea's priority claim, the Second Circuit certified questions concerning New York law, and the Court of Appeals answered the first question in the negative while declining to answer the second.

DISPOSITION

other

CASES CITED

- Pangea Capital Mgmt., LLC v. Lakian, 906 F.3d 1 (2d Cir. 2018)
- Pangea Capital Mgmt., LLC v. Lakian, 2017 U.S. Dist. LEXIS 149278 (S.D.N.Y. Sept. 13, 2017) (No. 16-cv-0840 (LAK))
- McDermott v. McDermott, 119 A.D.2d 370 (2d Dep't 1986)
- Kaplan v. Kaplan, 82 N.Y.2d 300 (1993)
- O'Brien v. O'Brien, 66 N.Y.2d 576 (1985)
- Majauskas v. Majauskas, 61 N.Y.2d 481 (1984)
- Musso v. Ostashko, 468 F.3d 99 (2d Cir. 2006)
- Darling v. Darling, 22 Misc. 3d 343 (Sup. Ct. Kings County 2008)
- Rodriguez v. Sepe, 29 Misc. 3d 1011 (Sup. Ct. Westchester County 2010)
- Charles Schwab & Co., Inc. v. Makowska, 999 F. Supp. 2d 459 (S.D.N.Y. 2014)
- In re Bellafiore, 492 B.R. 109 (E.D.N.Y. 2013)
- In re Anjum, 288 B.R. 72 (S.D.N.Y. 2003)
- In re Cole, 202 B.R. 356 (S.D.N.Y. 1996)
- In re Potter, 159 B.R. 672 (N.D.N.Y. 1993)