

Fordham Law School

FLASH: The Fordham Law Archive of Scholarship and History

All Decisions

Housing Court Decisions Project

2022-05-06

6914 Ridge Blvd., LLC v. Delao

Follow this and additional works at: https://ir.lawnet.fordham.edu/housing_court_all

Recommended Citation

"6914 Ridge Blvd., LLC v. Delao" (2022). *All Decisions*. 413.
https://ir.lawnet.fordham.edu/housing_court_all/413

This Housing Court Decision is brought to you for free and open access by the Housing Court Decisions Project at FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in All Decisions by an authorized administrator of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

[*1]

6914 Ridge Blvd., LLC v Delao
2022 NY Slip Op 50365(U)
Decided on May 6, 2022
Appellate Term, Second Department
Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.
This opinion is uncorrected and will not be published in the printed Official Reports.

Decided on May 6, 2022

SUPREME COURT, APPELLATE TERM, SECOND DEPARTMENT, 2d, 11th and 13th
JUDICIAL DISTRICTS

PRESENT: : THOMAS P. ALIOTTA, P.J., MICHELLE WESTON, CHEREÉ A. BUGGS, JJ
2020-544 K C and 2020-692 K C

6914 Ridge Blvd., LLC, Appellant,

against

Elinora Delao, Respondent, et al., Undertenants.

Berger Fink, LLP (David M. Berger and Valentine A. Pagan of counsel), for appellant.
Camba Legal Services (Kevin Li, Rabiah Gul and Alfred Toussaint of counsel), for
respondent.

Appeals from a decision of the Civil Court of the City of New York, Kings County
(Jeannine B. Kuzniewski, J.), dated January 6, 2020 (appeal No. 2020-544 K C), deemed
from a final judgment of that court entered January 6, 2020 (see CPLR 5512 [a]), and from
an order of the same court dated June 30, 2020 (appeal No. 2020-692 K C). The final
judgment, upon the decision, after a nonjury trial, dismissed the petition in a holdover
summary proceeding. The order dated June 30, 2020, insofar as appealed from as limited by
the brief, denied landlord's motion for a new trial.

ORDERED that, on the court's own motion, the appeals are consolidated for purposes of
disposition; and it is further,

ORDERED that the appeals are held in abeyance and the matter is remitted to the Civil

Court for a reconstruction hearing with respect to the portion of the trial that was conducted on September 9, 2019, which portion could not be transcribed because the recording was inaudible; if the minutes can be reconstructed, the stenographer(s) and/or the transcription service(s) is/are required to promptly make and certify a transcript of the reconstruction hearing, and the appellant is directed to file the certified transcript with this court within 30 days after the reconstruction hearing has been completed with proof of service of copies of said transcript on all of the other parties to the appeal; if the minutes cannot be reconstructed, the Civil Court shall issue a report to this court with all convenient speed.

In this licensee summary proceeding (RPAPL 713 [7]) to recover possession of a [*2]rent-controlled apartment, occupant Elinora Delao defended on the ground that she was entitled to succeed to the tenancy of Marguerite Valentin as a nontraditional family member (see New York City Rent and Eviction Regulations [9 NYCRR] § 2204.6). Following a trial that was held over the course of four days, the Civil Court dismissed the petition, finding that occupant was entitled to succeed to Valentin's tenancy, and landlord appeals (appeal No. 2020-544 K C). Upon attempting to settle the trial transcripts in order to perfect its appeal, landlord's appellate counsel learned that the recording of the portion of the trial that had been held on September 9, 2019 had been corrupted and was inaudible. As limited by its brief, landlord also appeals (appeal No. 2020-692 K C) from so much of an order of the Civil Court dated June 30, 2020 as, upon granting leave to file a late motion, denied the branch of landlord's motion seeking a new trial upon a finding that the Civil Court could not, at that juncture, determine that reconstruction of the missing trial transcript was not possible.

The issue raised by landlord in its appeal from the final judgment cannot be resolved on the record provided to this court due to the absence from the record of a transcript for the portion of the trial that was held on September 9, 2019 and which contained the cross-examination of occupant and the examination and cross-examination of two of occupant's three witnesses. A reconstruction hearing must therefore be held as to that portion of the trial (see *Matter of Trejo v Pavon*, 184 AD3d 760 [2020]; *Matter of Eckstein v Young*, 166 AD3d 971 [2018]; *Matter of Naquan L.G. (Carolyn C.)*, 119 AD3d 567 [2014]; *C.F.C. Commercial Flooring Contrs., Inc. v Sachs*, 9 Misc 3d 128[A], 2005 NY Slip Op 51524[U] [App Term, 2d Dept, 9th & 10th Jud Dists 2005]).

Accordingly, the appeals are held in abeyance and the matter is remitted to the Civil Court for a reconstruction hearing with respect to that portion of the trial that was conducted on September 9, 2019, which portion could not be transcribed because the recording was inaudible.

ALIOTTA, P.J., WESTON and BUGGS, JJ., concur.

ENTER:

Paul Kenny

Chief Clerk

Decision Date: May 6, 2022

[Return to Decision List](#)