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Azzat v Abudayyeh
2022 NY Slip Op 22204
Decided on July 6, 2022
Civil Court Of The City Of New York, Richmond County
Lantry, J.
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Decided on July 6, 2022

Civil Court of the City of New York, Richmond County

Mohamed Azzat, Plaintiff,

against

Ciara Abudayyeh and Anthony Weber, Defendants.

Index No. CV-000634-22/RI

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Defendant- No Appearance

Brendan T. Lantry, J.

Recitation, as required by CPLR § 2219 (a), of the papers considered in the review of this motion:

Papers Numbered

Plaintiff's Notice of Motion, Affirmation in Support of Plaintiff's Motion, with annexed exhibits 1-2

Plaintiff Mohamed Azzat ("Plaintiff") moves this Court for an Order granting him a default judgment against Defendants Ciara Abudayyeh ("Abudayyeh") and Anthony Weber ("Weber") (collectively "Defendants") for their failure to answer the Complaint pursuant to CPLR §3215. The Court hereby denies Plaintiff's motion.

Plaintiff commenced this Action by filing a Summons and Complaint on February 23, 2022. Plaintiff represents that he owns the premises located at 189 Mayberry Promenade, Basement, Staten Island NY 10312 ("Subject Premises"), which is a one family dwelling. According to the Plaintiff, the Defendants unlawfully reside at the Subject Premises and the Subject Premises "constitutes a second, illegal dwelling unit in Subject Premises." In the Summons and Complaint, Plaintiff alleges that "Defendants' continued use and occupancy of the basement of the Subject Premises is illegal" and that Plaintiff elects to recover possession pursuant to Article 6 of the Real Property Actions and Proceeding Law ("RPAPL"). Plaintiff further contends that Defendants "have not paid any rent for over 3 years" and that this Court has subject matter jurisdiction over this ejectment proceeding since the "tax assessed value of the Subject Premises is \$27,864.00."

Plaintiff represents that the Defendants were served with the Summons and Complaint pursuant to CPLR §308(4) on March 11, 2022 at the Subject Premises and that service was complete pursuant to the statute on March 31, 2022, which is 10 days after the Affidavit of Service was filed with this Court on March 21, 2022. Plaintiff further mailed the Summons and Complaint to each Defendant pursuant to CPLR §3215(g) on May 3, 2022. Plaintiff provides affidavits of service in support of his representations with respect to service. Based upon Defendants' failure to answer or otherwise appear in this action, the Plaintiff requests that the Court enter a default judgment against the Defendants.

Discussion

Pursuant to Civil Court Act ("CCA") §203(j), this Court has jurisdiction over an action of ejectment where the assessed valuation of the real property does not exceed \$25,000.00 when the action is commenced. Despite Plaintiff's contentions regarding this Court's jurisdiction, the Court finds that it does not have jurisdiction over this matter. Effective January 1, 2022, Article 6, Section 15 of the New York State Constitution was amended to expand the jurisdiction of this Court. Prior to its amendment, Article 6, Section 15 of the New York State Constitution previously read:

The court of city-wide civil jurisdiction of the city of New York shall have jurisdiction over the following classes of actions and proceedings which shall be originated in such court in the manner provided by law: actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels and actions and proceedings for the foreclosure of mechanics liens and liens on personal property where the amount sought to be recovered or the value of the property does not exceed **twenty-five thousand dollars** exclusive of interest and costs, or such smaller amount as may be fixed by law; over summary proceedings to recover possession of real property and to remove tenants therefrom and over such other actions and proceedings, not within the exclusive jurisdiction of the supreme court, as may be provided by law. The court of city-wide civil jurisdiction shall further exercise such equity jurisdiction as may be provided by law and its jurisdiction to enter judgment upon a counterclaim for the recovery of money only shall be unlimited. NY Const art. VI, § 15 (emphasis added.)

Pursuant to the amendment made effective on January 1, 2022, the New York State [*2]Constitution Article 6, Section 15 currently reads:

The court of city-wide civil jurisdiction of the city of New York shall have jurisdiction over the following classes of actions and proceedings which shall be originated in such court in the manner provided by law: actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels and actions and proceedings for the foreclosure of mechanics liens and liens on personal property where the amount sought to be recovered or the value of the property does not exceed **fifty thousand dollars** exclusive of interest and costs, or such smaller amount as may be fixed by law; over summary proceedings to recover possession of real property and to remove tenants therefrom and over such other actions and proceedings, not within the exclusive jurisdiction of the supreme court, as may be provided by law. The court of city-wide civil jurisdiction shall further exercise such equity jurisdiction as may be provided by law and its jurisdiction to enter judgment upon a counterclaim for the recovery of money only shall be unlimited. NY Const art. VI, § 15 (emphasis added.)

Prior to its approval by the voters at the general election held on November 2, 2021, the amendment, known as Assembly Bill 3109A/Senate Bill S514-A, was a concurrent resolution of the Senate and Assembly to amend Section 15 of Article 6 of the New York State Constitution with respect to the New York City Civil Court. The bill's purpose was to "increase the jurisdiction of New York City Civil Court for actions and proceedings in the recovery of money or property worth no more than twenty-five thousand dollars to no more than fifty thousand dollars."

Despite the intent of the legislature to increase the jurisdiction of this Court to adjudicate over proceedings for recovery of money or property of no more than \$50,000, such legislative intent is currently being held in abeyance. While Article 6, Section 15 of the New York State Constitution was amended to increase the jurisdiction of this Court from \$25,000 to \$50,000, such jurisdiction is limited by the following provision: "or such smaller amount as may be fixed by law." (NY Const art. VI, § 15). As previously stated, CCA §203(j) provides that the Civil Court of the City of New York shall have jurisdiction over "an action of ejectment where the assessed valuation of the real property does not exceed \$25,000 at the time the action is commenced." Since CCA §203(j) has not been amended to increase the jurisdiction of this Court in accordance with the legislative intent underlying the amendment recently made to Article 6, Section 15 of the New York State Constitution, this Court's jurisdiction remains limited to ejectment actions for property valued at no more than \$25,000. Since Plaintiff has demonstrated prima facie that the tax assessed value of the Subject Premises is \$27,864.00, this Court currently lacks jurisdiction over the matter pursuant to CCA §203.

While this Court's jurisdiction is currently restricted to ejectment actions for property valued at no more than \$25,000, the Court's jurisdiction may soon be expanded. In May 2022, Assembly Bill A10461/Senate Bill S9377(hereinafter "S9377"), which is "an act to amend the New York city civil court act, in relation to monetary jurisdictional limits". Under S9377, CCA §203(j) would be amended to read that the Civil Court of the City of New York shall have jurisdiction over "an action of ejectment where the assessed valuation of the real property does [*3]not exceed **\$50,000** at the time the action is commenced." (emphasis added). S9377 further states that when the act takes effect, it "shall take effect immediately and shall be deemed to have been in full force and effect on or after January 1, 2022." As of the date of this decision, the S9377 was passed by the Senate and the Assembly, but has not been delivered to, nor signed by, the Governor of the State of New York. Since S9377 has not been enacted, this Court's jurisdiction has not been expanded to adjudicate ejectment matters for property valued up to \$50,000.

The Court recognizes that this matter is a unique circumstance, as this action would come into this Court's jurisdiction upon the enactment of S9377, namely since the S9377 is retroactive and would be deemed effective January 1, 2022. However, unless S9377 is enacted into law, the Civil Court of the City of New York remains limited to the \$25,000 jurisdictional "cap" found in CCA §203. Since Plaintiff has demonstrated prima facie that the tax assessed value of the Subject Premises is \$27,864.00, this Court currently lacks jurisdiction over the matter pursuant to CCA §203 and the action must be dismissed.

Accordingly, it is hereby

ORDERED that Plaintiff's motion is hereby denied; and it is

ORDERED that the Plaintiff's Complaint is dismissed without prejudice.

The foregoing constitutes the Decision and Order of the Court.

July 6, 2022
Staten Island, New York
Hon. Brendan T. Lantry
Judge of the Civil Court

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