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Corzo v. David

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Corzo v David
2022 NY Slip Op 22404
Decided on December 12, 2022
Civil Court Of The City Of New York, Queens County
Guthrie, J.
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Decided on December 12, 2022

Civil Court of the City of New York, Queens County

<p>Gladys M. Corzo, Petitioner,</p> <p>against</p> <p>Ravindra David, Respondent, and NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT (DHPD), Respondent.</p>

Index No. HP 6290/22

Gladys M. Corzo, petitioner (pro se)

Clinton J. Guthrie, J.

PROCEDURAL BACKGROUND & INQUEST

Petitioner filed this HP action by order to show cause for a finding of harassment in October 2022. The premises are located in Jamaica, New York. The case appeared on this court's calendar on November 23, 2022. After respondent Ravindra David failed to appear, the court adjourned the case for inquest on December 12, 2022. When respondent David again failed to appear on December 12, 2022, the court conducted an inquest and reserved decision.

At the inquest, petitioner Gladys Corzo testified. She testified that she had lived at the subject premises for 10 years. She stated that she "purchased" the premises with her ex-partner but that her name was never placed on the deed. According to her testimony, her ex-partner deeded the subject property to his friend, Ravindra David. She testified that she had an order of protection against her ex-partner and that he had left the country.

Ms. Corzo also testified that Mr. David would call her and insult her. She also described an incident where Mr. David swore at her minor child and told him to get out of the house. However, it was not clear whether she was present or if the conversation was relayed by her [*2]child. The court also admitted four (4) police reports that Ms. Corzo testified had been obtained from the NYPD. However, she did not explain the details of the specific incidents giving rise to the police reports. At most, she stated that Mr. David had once precluded her and a neighbor from entering the premises, but there was no testimony about when it occurred or precisely what happened.

Finally, Ms. Corzo testified about interruptions in water, electricity, hot water, and heat. The court stated that it would take judicial notice of any DHPD open violations pursuant to Multiple Dwelling Law (MDL) § 328(3).

DISCUSSION & CONCLUSION

Upon due deliberation of the trial testimony and evidence, the court finds that petitioner has not established that respondent Ravindra David engaged in harassment as prohibited by NYC Admin. Code § 27-2005(d) and as defined by NYC Admin. Code § 27-2004(a)(48). The testimony was lacking in important details about the acts described, including dates and petitioner's first-hand knowledge of the acts. In addition, although petitioner described interruptions of essential services, there are no open violations related to the lack of any essential service on the DHPD website for the subject building. *See* MDL § 328(3). The relevant appellate authority requires the existence of a predicate violation for a claim of harassment related to the interruption/discontinuance of an essential service to exist. [*See Berg v. Chelsea Hotel Owner, LLC*, 203 AD3d 484](#), 485 [1st Dept 2022].^[EN1] Petitioner's testimony was not sufficient for the court to find the existence of a violation in the absence of one placed by a governmental agency. *See e.g. Mite v. Pipedreams Realty*, 190 Misc 2d 543, 545 [Civ Ct, Bronx County 2002, Gonzalez, J.].

Moreover, even assuming petitioner had established acts of harassment defined in the Housing Maintenance Code, she failed to demonstrate that the acts "were intended to cause

[a] person to vacate [the] dwelling unit or waive any rights in relation to such occupancy[.]" NYC Admin. Code § 27-2004(a)(48)(ii). Intent was required to be established here, where the building is a "private dwelling" (1 "A" unit, according to the DHPD website), as there is no rebuttable presumption of intent created by the statute. *Id.*

For the foregoing reasons, the petition is dismissed after inquest. The court will mail copies of this Decision/Order to Ravindra David and will email a copy to petitioner and to the attorneys for DHPD. Petitioner is directed to pick up her exhibits within 35 days or they will be sent to her or destroyed at the court's discretion in accordance with DRP-185.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

Dated: December 12, 2022
Queens, New York

CLINTON J. GUTHRIE, J.H.C.

Footnotes

Footnote 1: This court must follow Appellate Division precedents from other departments until the Court of Appeals or the Appellate Division, Second Department pronounces a contrary rule. *Mountain View Coach v. Storms*, 102 AD 663, 664 [2d Dept 1984].

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