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Zitman v. Sutton LLC

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Zitman v Sutton LLC
2019 NY Slip Op 08527 [177 AD3d 565]
November 26, 2019
Appellate Division, First Department
Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.
As corrected through Wednesday, January 1, 2020

[*1]

Haim Zitman, Appellant, v Sutton LLC et al., Respondents.
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Robert Elan, New York, for appellant.

Haim Zitman, appellant pro se.

Cullen & Associates P.C., New York (Wayne L. DeSimone of counsel), for respondents.

Order, Supreme Court, New York County (Arlene P. Bluth, J.), entered on or about September 6, 2018, which granted defendant's motion to dismiss the complaint as time-barred, unanimously reversed, on the law, without costs, and the motion denied.

Plaintiff's claims for rent overcharges during the six years preceding the commencement of this action, based chiefly on an allegedly improper rent increase in about 1986, are timely (*see* CPLR 213-a; *Moore v Greystone Props. 81 LLC*, 176 AD3d 516 [1st Dept 2019]; [Dugan v London Terrace Gardens, L.P.](#), 177 AD3d 1, 8-9 [1st Dept 2019]). Although the complaint was dismissed on September 6, 2018, the action remained "pending" for purposes of retroactive application of CPLR 213-a during the pendency of the instant appeal (*see* L 2019, ch 36, § 1, part F, § 7; *Dugan*, 177 AD3d at 5). Concur—Mazzarelli, J.P., Kapnick, Gesmer, Moulton, JJ. [**Prior Case History: 2018 NY Slip Op 32192(U).**]