

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
BROOKLYN PORTFOLIO LLC,

Index No.:

Plaintiff,

-against-

SUMMONS

REGENT ASSOCIATES,

Defendant.

-----X

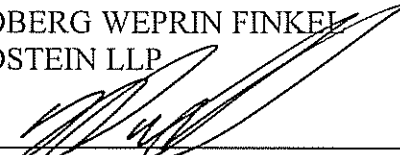
Plaintiff designates Kings
County as the place
of trial. *

TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorneys within twenty (20) days of the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
December 10, 2013

GOLDBERG WEPRIN FINKEL
GOLDSTEIN LLP

By: 

By: Matthew Hearle
Attorneys for Plaintiff
1501 Broadway - 22nd Floor
New York, New York 10036
(212) 221-5700

TO: Regent Associates
1509 79th Street
Brooklyn, New York

* The basis of venue: This action affects title to real property located in Kings County.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
BROOKLYN PORTFOLIO LLC,

Index No.:

Plaintiff,

– against –

REGENT ASSOCIATES,

COMPLAINT

Defendant.
-----X

Plaintiff, Brooklyn Portfolio LLC, through its attorneys, Goldberg Weprin Finkel Goldstein LLP, as and for its complaint against defendant Regent Associates, respectfully alleges as follows:

PARTIES

1. Plaintiff, Brooklyn Portfolio LLC (“Plaintiff”) is a New York limited liability company having an address c/o Castellan Real estate Partners, 1841 Broadway, Suite 400, New York, New York 10003.
2. Upon information and belief, defendant Regent Associates (“Defendant”) is a New York limited partnership having an address of 1509 79th Street, Brooklyn, New York.

THE CONTRACT

3. At all relevant times hereto, Defendant is the owner of the buildings known as:

90 East 18 th Street, Brooklyn, New York	–	Block: 5097, Lot 91
600 East 22 nd Street, Brooklyn, New York	–	Block: 5221, Lot 63
25 East 21 st Street, Brooklyn, New York	--	Block: 5063, Lot 21
369 East 21 st Street, Brooklyn, New York	--	Block: 5125, Lot 79
2322 Bedford Avenue, Brooklyn, New York	--	Block: 5126, Lot 54
2102 Regent Place, Brooklyn, New York	--	Block: 5125, Lot 45
2108 Regent Place, Brooklyn, New York	--	Block: 5125, Lot 47
2112 Regent Place, Brooklyn, New York	--	Block: 5125, Lot 48
2116 Regent Place, Brooklyn, New York	--	Block: 5125, Lot 49

(collectively, the “Premises”).

4. By Contract of Sale dated August 12, 2013 (the "Contract"), Defendant agreed to sell and Plaintiff agreed to purchase the Premises.

5. A general partner of Defendant, Arthur Gallinaro ("Gallinaro") executed the Contract on behalf of Defendant.

6. Pursuant to the Contract, a deposit of Three Hundred Thousand Dollars (\$300,000.00) (the "Deposit") was made by Plaintiff.

7. The Contract provided for a closing date sixty (60) days after execution of the Contract.

8. The Contract at Section 7 of the Rider to the Contract, provides as follows:

Seller shall deliver to Purchaser at the closing ... A bargain and sale deed with covenants against grantor's acts ...

9. The Contract, at Section 4.14 of the Second Rider provides as follows:

Seller is a limited partnership validly existing in accordance with the laws of the State of New York. Seller has the necessary power and authority to consummate the transaction contemplated by this contract and has, by proper resolutions, duly authorized the execution and delivery of this contract and the completion of the transactions contemplated herein.

DEFENDANT'S INTERNAL DISPUTE AND LITIGATION

10. Pursuant to the Contract, the parties had scheduled a closing in the first week of November 2013.

11. On October 31, 2013, a complaint was filed in the Supreme Court, Kings County by Henry F. Camuso ("Camuso"), a general partner of Defendant against, among others, Defendant, its general partner, Gallinaro, and Camuso's ex-wife, Madeline Camuso ("Madeline").

12. The gravamen of Camuso's complaint is that Defendant's partnership agreement requires the approval by a majority of Defendant's general partners to any sale of the Premises and,

since Camuso had not and did not approve the sale, the Contract was invalid and without effect.

13. Camuso in his complaint alleges that Defendant has two general partners, He and Gallinaro.

14. Camuso further asserts that since there are two general partners and the approval of a majority of general partners is required, both general partners must consent to the execution of the Contract and the consummation of the sale of the Premises.

15. Camuso alleges that he does not consent to or approve of the sale of the Premises.

16. Upon information and belief, Defendant disputes Camuso's assertion that his approval is required under the partnership agreement because there are three general partners of Defendant and two of the three have consented to and approved of the sale of the Premises.

17. Upon information and belief, Defendant, as well as Gallinaro and Madeline, have moved to dismiss Camuso's complaint and that motion remains pending.

18. In conjunction with the commencement of his litigation, Camuso has filed notices of pendency against the Premises and, by doing so, has effectively blocked the sale of the Premises by Defendant.

19. As a consequence of the foregoing, Defendant was rendered incapable or unwilling to deliver title to the Premises as required under the Contract.

20. Plaintiff has fully complied with its obligations under the Contract.

**AS AND FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment)**

21. Plaintiff repeats and realleges the allegations set forth in paragraphs "1" through "20" above as though set forth at length herein.

22. Defendant's internal strife has rendered Defendant incapable or unwilling to deliver title to the Premises as required by the Contract.

23. Defendant's internal strife rendered Defendant incapable or unwilling to deliver title to the Premises as it was required to do on the closing date.

24. The time for closing on title under the Contract has passed and Defendant is and was incapable or unwilling to close as contractually required.

25. A dispute exists within Defendant itself and, therefore, between Plaintiff and Defendant with respect to the validity and effectiveness of the Contract.

26. A dispute exists within Defendant itself and, therefore, between Plaintiff and Defendant with respect to Defendant's obligations and ability to deliver title to the Premises in accordance with the Contract.

27. Plaintiff is entitled to a declaratory judgment that the Contract was validly executed, was duly authorized, and is a binding obligation on Defendant and that Defendant is obligated to deliver title to the Premises in accordance with the Contract as well as the parties' respective rights and obligations under the Contract.

28. A justiciable controversy exists between the parties and the Court's determination of such shall resolve the dispute.

**AS AND FOR A SECOND CAUSE OF ACTION
(Specific Performance)**

29. Plaintiff repeats and realleges the allegations set forth in paragraphs "1" through "28" above as though set forth at length herein.

30. Plaintiff and Defendant entered into valid, binding and enforceable Contract for the sale to Plaintiff of the Premises.

31. The Contract contains a specific and unambiguous representation by Defendant that the execution of the Contract was duly authorized by all necessary resolutions and that Defendant was fully authorized to consummate the transaction contemplated by the Contract.

32. Plaintiff necessarily relied upon the truth of such representation in entering into the Contract and committing its resources into buying the Premises.

33. The commencement of the Camuso litigation has raised the possibility that such representation was false and untrue which constitutes a breach of the Contract.

34. Conversely, to the extent the allegations in the Camuso litigation are untrue or unfounded, the consequence remains that Defendant is and has been unwilling or unable to deliver title to the Premises as required by the Contract and that constitutes a breach of the Contract.

35. Plaintiff has been and remains ready, willing and able to close upon Defendant's tendering of title to the Premises as required by the Contract.

36. The Premises are unique.

37. Plaintiff has no adequate remedy at law.

38. Plaintiff is entitled to judgment directing Defendant to specifically perform its obligations under the Contract by, among other things, tendering title to the Premises.

**AS AND FOR A THIRD CAUSE OF ACTION
(Breach of Contract)**

39. Plaintiff repeats and realleges the allegations set forth in paragraphs "1" through "38" above as though set forth at length herein.

40. Plaintiff and Defendant entered into valid, binding and enforceable Contract for the sale to Plaintiff of the Premises.

41. The Contract contains a specific and unambiguous representation by Defendant that the execution of the Contract was duly authorized by all necessary resolutions and that Defendant was fully authorized to consummate the transaction contemplated by the Contract.

42. Plaintiff necessarily relied upon the truth of such representation in entering into the Contract and committing its resources into buying the Premises.

43. The commencement of the Camuso litigation has raised the possibility that such representation was false and untrue which constitutes a breach of the Contract.

44. Conversely, to the extent the allegations in the Camuso litigation are untrue or unfounded, the consequence remains that Defendant is and has been unwilling or unable to deliver title to the Premises as required by the Contract and that constitutes a breach of the Contract.

45. Plaintiff has been and remains ready, willing and able to close upon Defendant's tendering of title to the Premises as required by the Contract.

46. Defendant failed to close on title to the Premises as required by the Contract.

47. Plaintiff fulfilled all its obligations under the Contract.

48. Defendant has breached its obligations under the Contract inasmuch as Defendant is incapable and/or unwilling to deliver title to the Premises to Plaintiff in accordance with the Contract.

49. Plaintiff is entitled to enforce its rights and remedies arising from Defendant's breach of contract, such remedies including, without limitation, specific performance and damages.

50. Plaintiff is entitled to judgment against Defendant based on Defendant's breach of contract for legal, equitable or such other relief as may be available including, without limitation, specific performance, and damages in an amount to be determined at trial or inquest.

WHEREFORE, Plaintiff respectfully requests as follows:

- A. On Plaintiff's First Cause of Action: Judgment declaring that the Contract was validly executed by Defendant, was duly authorized by Defendant, and is a binding obligation on Defendant and that Defendant is obligated to deliver title to the Premises in accordance with the Contract as well as the parties' respective rights and obligations under the Contract; and

- B. On Plaintiff's Second Cause of Action: Judgment directing Defendant to specifically perform its obligations under the Contract by, among other things, tendering title to the Premises in accordance with the Contract; and
- C. On Plaintiff's Third Cause of Action: Judgment in favor Plaintiff and against Defendant for Defendant's breach of contract and awarding to Plaintiff all legal, equitable or such other relief as may be available including, without limitation, specific performance, and damages in an amount to be determined at trial or inquest.
- D. Judgment awarding to Plaintiff its costs, disbursements and reasonable attorneys' fees incurred herein; and
- E. Judgment awarding to Plaintiff such further and different relief as the Court may deem just and appropriate in these circumstances.

Dated: New York, New York
December 10, 2013

GOLDBERG WEPRIN FINKEL
GOLDSTEIN LLP

By: 
By: Matthew Hearle

Attorneys for Plaintiff
1501 Broadway – 22nd Floor
New York, New York 10036
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