

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 31, 2019.

Present - Hon. David Friedman, Justice Presiding,
Rosalyn H. Richter
Marcy L. Kahn
Anil C. Singh, Justices.

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In the Matter of

Capital Enterprises Co.,
Petitioner-Appellant,

SEALED
M-2508
M-2690

-against-

Index No. 653961/16

Alvin Dworman,
Respondent-Respondent,

Sachs Investing Company and Sachs
Properties Company,
Non-Party Appellants.

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An appeal having been taken by petitioner-appellant from an order of the Supreme Court, New York County, entered on or about January 16, 2019, which granted respondent's motion to confirm an arbitration award dated July 30, 2018 and denied petitioner's cross motion to vacate the award, and the appeal having been perfected (Cal No. 2019-399),

And an appeal having been taken by non-party-appellants from an order of the same court, entered on or about January 8, 2019, which denied their motion to vacate the aforesaid arbitration award, and the appeal having been perfected (Cal No. 2019-310),

And appeals having been taken by petitioner-appellant from the orders of the same court (1) entered on or about May 14, 2019, which denied petitioner's motion to vacate the April 30, 2019 orders of the arbitrator, which, inter alia, struck petitioner's bid to purchase the subject real properties and excluded petitioner from the sale process, and for a preliminary injunction staying the sales (Cal No. 2019-4302); and (2) entered on or about May 17, 2019, which denied petitioner's motion to vacate and confirmed the May 13, 2019 order of the arbitrator, which, inter alia, granted the Special Liquidator the authority to execute any and all documents necessary for the sale of the subject real properties (Cal No. 2019-4401),

And petitioner-appellant, in separate motions, having moved for (1) a preliminary injunction staying the sale of the subject real properties pending the hearing and determination of its appeal of the May 14, 2019 order (M-2508), and (2) a preliminary injunction staying the enforcement of the May 17, 2019 order, granting the Special Liquidator executory authority, and staying the Special Liquidator from executing a contract of sale, pending the hearing and determination of the appeal taken therefrom (M-2690),

Now, upon reading and filing the papers with respect to the motions, and due deliberation having been had thereon,

It is ordered that petitioner-appellant's motion for a preliminary injunction staying the sale of the subject real properties (M-2508), is granted to the extent of staying the closing of the sale and transfer of titles to the subject real properties, pending the hearing and determination of the appeal of the May 14, 2019 order, on condition that petitioner perfects the appeal for the September 2019 Term, and is otherwise denied, and

It is further ordered that petitioner-appellant's motion for a preliminary injunction staying the enforcement of the May 17, 2019 order, granting the Special Liquidator executory authority (M-2690), is denied in its entirety, and the Special Liquidator may execute a Purchase and Sale Agreement for the sale of the subject real properties.

ENTERED:


CLERK