

At an IAS Term, Part Comm 6 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at Civic Center, Brooklyn, New York, on the 5th day of January, 2021.

P R E S E N T:

HON. LAWRENCE KNIPEL,
Justice.

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GOLDEN BRIDGE LLC D/B/A GOLDEN BRIDGE
FUNDING, LLC,

Plaintiff,

against -

Index No. 503750/20

MEI ZHEN LIU, BI FENG ZHOU, FA MING LIU,
DEPARTMENT OF HOUSING PRESERVATION &
DEVELOPMENT, JOHN DOE # 1- # 50,
JANE DOE #1- # 50, THE LAST TWO NAMES
BEING FICTITIOUS, IT BEING INTENDED TO
NAME ALL OTHER PARTIES WHO MAY HAVE
SOME INTEREST IN OR LIEN UPON THE PREMISES
DESCRIBED IN THE COMPLAINT,

Defendants.

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The following e-filed papers read herein:

NYSCEF Doc Nos.

Notice of Motion/Order to Show Cause/
Petition/Cross Motion and
Affidavits (Affirmations) Annexed _____

19-26

Upon the foregoing papers in this action to foreclose a mortgage on the commercial property at 8789 17th Avenue in Brooklyn (Block 6433, Lot 30) (the Brooklyn Property), plaintiff Golden Bridge LLC d/b/a Golden Bridge Funding, LLC (Golden Bridge) moves (in motion sequence [mot. seq.] two) for an order granting it leave to renew, pursuant to CPLR 2221 (e) (2), and, upon renewal: (1) granting it a default judgment as to liability as against defendants Mei Zhen Liu, Bi Feng Zhou, Fa

to compute the amount due and owing and to report whether the Property can be sold in parcels pursuant to RPAPL 1321.

Background

On January 7, 2019, Golden Bridge commenced a commercial foreclosure action in Queens Supreme Court, against the same mortgagor defendants now named in this case, for an alleged default in making payments to it on an \$800,000.00 consolidation, extension and modification agreement (CEMA) secured by both a Queens property at 16-41 200 Street in Bayside (Block 5779, Lot 47) (the Queens Property) and the Brooklyn Property. The Queens Property alone had initially secured a \$400,000.00 mortgage and note to Golden Bridge and thereafter the \$800,000.00 CEMA, which had been secured by just the Brooklyn Property, also became secured by the Queens Property through a Spreader Agreement.¹ Golden Bridge chose only to involve the Queens Property in the Queens Supreme Court commercial foreclosure action.

On February 14, 2020, 13 months after commencing the Queens Supreme Court commercial foreclosure action, Golden Bridge commenced this foreclosure action against the Brooklyn Property for an alleged default in principal payments under the \$400,000.00 mortgage and note because the loan matured on March 2, 2019. Golden Bridge declared the amount owing under that mortgage and note immediately due and payable, and that

¹ Defendants Mei Zhen Liu and Bi Feng Zhou, owners of the Brooklyn Property, and defendant Fa Ming Liu (one of the owners of the Queens Property, who owns it together with Bi Feng Zhou) all signed the Spreader Agreement, which spread the \$800,000 lien previously placed on the Brooklyn Property to the Queens Property as well. In other words, all owners of both properties agreed and executed the Spreader Agreement meaning that the two properties cross-collateralized both mortgages.

the Spreader Agreement (*see* n 1) allowed both the Brooklyn Property and the Queens Property to secure that mortgage and note.

The record reflects that Golden Bridge served defendants with process in this foreclosure action on February 18, 19, 20, 21 and 24, 2020. None of the defendants answered or otherwise responded to the complaint.

On September 24, 2020, Golden Bridge filed a motion (in mot. seq. one) for a default judgment as against the nonappearing defendants and for an order of reference based solely on an attorney affirmation. By a November 13, 2020 decision and order, this court denied Golden Bridge's motion with leave to renew upon submission of proper papers. This court held that "Golden Bridge fails to make out a *prima facie* case by submitting admissible evidence from someone with personal knowledge to establish mortgagor defendants' default."

Golden Bridge now seeks to renew its prior motion for a default judgment as to liability against the mortgagor defendants regarding the Brooklyn Property and the appointment of a referee to compute and to examine and report whether the Brooklyn Property can be sold in parcels. Golden Bridge, along with copies of the note and mortgage, submits the affirmation of Stephen I. Feder, Esq., the authorized signatory for Golden Bridge and its "transactional attorney," to establish defendants' payment default.

Discussion

A motion pursuant to CPLR 2221 to renew "must be (1) based upon new facts not offered on the prior motion that would change the prior determination, and (2) set forth a reasonable justification for the failure to present such facts on the prior motion" (*Matter*

of *Nelson v Allstate Ins. Co.*, 73 AD3d 929, 929 [2010]). Here, this court previously granted Golden Bridge leave to renew and directed that it do so based on admissible evidence of defendants' default from someone with personal knowledge.

Generally, to establish prima facie entitlement to judgment as a matter of law in an action to foreclose a mortgage, a plaintiff must produce the mortgage, the unpaid note, and evidence of default (see *Deutsche Bank Natl. Trust Co. v Karibandi*, 188 AD3d 650, 2020 NY Slip Op 06244, *1 [2d Dept 2020]; *Christiana Trust v Moneta*, 186 AD3d 1604, 1605 [2d Dept 2020]; *Deutsche Bank Trust Co. Am. v Garrison*, 147 AD3d 725, 726 [2d Dept 2017]). Here, Golden Bridge has established a prima facie case by producing the note, the mortgage and the Feder affirmation, which constitutes admissible evidence of defendants' payment default. Accordingly, it is

ORDERED that Golden Bridge's motion (in mot. seq. two) for leave to renew is granted, and, upon renewal, Golden Bridge's motion for a default judgment against defendants and an order of reference is granted without opposition. Golden Bridge shall settle an order of reference on notice; and it is further

ORDERED that counsel for Golden Bridge is directed to serve a copy of this decision and order on all parties included in the caption and all parties previously listed on the second page of the notice of motion herein.

This constitutes the decision and order of the court.

ENTER



J. S. E.

Justice Lawrence Knipel