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NO. 29285-96

SUPREME COURT - STATE OF NEW YORK
IAS TERM, PART 28 NASSAU COUNTY

PRESENT:

HONORABLE LEONARD B. AUSTIN

Justice

Motion R/D: 8-1-00

Submission Date: 8-1-00

Motion Sequence No.: 001/MOT D

FRANK BARDANI,

Plaintiff - Judgment Creditor,

- against -

GEORGE M. BLATTI, GEORGE M.
BLATTI, MD.D., GEORGE M. BLATTI, M.D.,
P.C., and HEMPSTEAD AVENUE REALTY
CORP.,

Defendants - Judgment Debtor.

x

PLAINTIFF'S ATTORNEY

John N. Tasolides, Esq.

350 Jericho Turnpike

Jericho, New York 11753

DEFENDANT'S ATTORNEY

George M. Blatti, M.D., P.C., *Pro Se*

93 Hempstead Avenue

Lynbrook, New York 11563

x

Upon the following papers read on Plaintiff's motion seeking to amend and correct a judgment:

Plaintiff's Notice of Motion;
Affidavit Of John N. Tasolides, Esq.;
and no papers in Opposition.

On October 30, 1997, Plaintiff was granted a judgment against Hempstead Avenue Realty Corp. and George M. Blatti, M.D., P.C. in the amount of \$358,926.25. Dr. Blatti filed for bankruptcy protection. Therefore, no judgment was entered against him. Plaintiff has recently learned of a typographical error in that judgment was entered against Hempstead Avenue Realty Corp. instead of 93 Hempstead Avenue Realty Holding Corp. That error came to light when an attorney who represents "an unrelated

corporation" named Hempstead Avenue Realty Corp. was in the process of transferring title on a different piece of property when the judgment herein was disclosed by the title search. Plaintiff seeks to amend the pleadings pursuant to CPLR 3024 and to correct the judgment pursuant to CPLR 5019.

DISCUSSION

Pursuant to CPLR 3025 (c), the Court may permit pleadings to be amended before or after judgment to conform them to the evidence. Here, the promissory note at issue was executed by 93 Hempstead Avenue Realty Holding Corp. hence the amendment is proper.¹

CPLR 5019 in relevant part provides that "a judgment shall not be stayed, impaired or affected by any mistake defect or irregularity in the papers or procedures in the action not affecting a substantial right of a party." CPLR 5019 permits a judgment to be corrected so long as a substantial right of a party is not affected. Kiker v. Nassau County, 85 N.Y. 2d 879, 626 N.Y.S. 2d 55 (1995). Here, Defendant has not opposed the motion and no defense has been asserted. The error here was ministerial rather than substantial. Accordingly, it is,

ORDERED, that Plaintiff's motion to amend the pleadings and judgment so as to

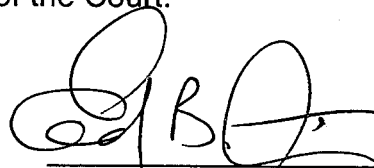
¹While Plaintiff's unopposed motion requests amendment to 93 Hempstead Avenue Realty Holding Corp. in its notice of motion the wherefore clause requests amendment to 85 Hempstead Avenue Realty Holding Corp. It is noted that 85 Hempstead Avenue is the address of Hempstead Realty Holding Corp. It is Plaintiff's counsel's failure to attend to such detail that caused the necessity of this motion in the first instance.

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correct the name of Defendant Hempstead Avenue Realty Corp to 93 Hempstead
Avenue Realty Holding Corp. is granted.

This constitutes the decision and Order of the Court.

Dated: Mineola, NY
October 6, 2000

A handwritten signature in black ink, appearing to read 'L. B. Austin', written over a horizontal line.

Hon. LEONARD B. AUSTIN, J.S.C.