

Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: Honorable, JAMES P. DOLLARD IAS PART 5
Justice

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MING CHIEN HSU & SUN MING SHEU,

Plaintiffs,

Index No. 27035/05

Motion Date: Apr. 3, 2007

Cal. No.10

Motion Sequence No. S016

-against-

AMY CHENG, AMY CHENG a/k/a WANG,
JINRONG a/k/a JIN RONG WANG,
JING GAO, GAO, JING a/k/a MICHAEL
GAO, ROMAN CHIU a/k/a PUI YIM CHIU,
YEK YUN CHIU, a/k/a MICHELLE YEK YUN
CHIU a/k/a CHIU, MICHELLE YEK YUN
a/k/a MICHELLE CHIU AIKJ CHIU, MICHELLE
JEFFREY J. RUAN, GAVIN CHOI, YAKOV J.
BOHENSKY a/k/a JAY BOHENSKY, JOSEPH
BIGMAN, WRE TITLE AND ABSTRACT, WRE
MANAGEMENT CO., WILK REAL ESTATE, BAM
MANAGEMENT, INC., HWAJIE QIAO, YUEH
YEN LIN WENG, JOHN DOES 1 to 10,

Defendants.
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The following papers numbered 1 to 18 read on this motion by plaintiff Sun Ming Sheu for an order renewing his prior application for summary judgment in favor of plaintiffs as against defendant Amy Cheng.

| | <u>PAPERS NUMBERED</u> |
|---|----------------------------|
| Notice of Motion-Affidavit-Exhibit..... | 1 - 4 |
| Affidavit in Support..... | 5 - 8 |
| Affirmation on Motion..... | 9 - 10 |
| Affirmation in Opposition..... | 11 - 12 |
| Notice of Cross Motion-Affidavits-Exhibits... | 13 - 15 |
| Memorandum of Law in Support of Cross Motion. | 16 |
| Affirmation on Motion (Reply) (not considered by the Court since it was not served on the other parties)..... | 17 - 18 |

Upon the foregoing papers it is ordered that the motion to renew and amend the complaint and for summary judgment is denied and the cross motion to dismiss the complaint is granted since plaintiff Sun Ming Sheu has no standing to commence this lawsuit pro se.

By prior order of this court dated July 19, 2006 the

complaint of plaintiff Sun Ming Sheu was dismissed as against the Chiu defendants because "plaintiff Sun Ming Sheu transferred title to the property in question prior to the alleged fraudulent transfer of this property on May 23, 2000. Plaintiff Sun Ming Sheu did not own the premises on May 23, 2000." Plaintiffs moved for summary judgment against defendant Amy Cheng and the motion was submitted on October 3, 2006, without opposition. This motion, by order of Justice Peter J. O'Donoghue was "denied with leave to renew upon the filing of an amended complaint." Plaintiff Sun Ming Sheu now moves to amend the complaint.

The cross motion and opposition papers reveal that plaintiff Sun Ming Sheu holds a durable power of attorney for his brother co-plaintiff Ming Chien Hsu who resides in Tayyun City, Taiwan. As stated above, co-plaintiff Sun Ming Sheu's claims were dismissed in the July 19, 2006 order because the documentary evidence showed that Mr. Sheu had no interest in the subject property prior to the alleged fraudulent transfer. It appears that Sun Ming Sheu is trying to represent his brother Ming Chien Hsu in this lawsuit based on this power of attorney. It is uncontested that Sun Ming Sheu is not an attorney at law admitted to practice in the State of New York.

"New York law prohibits the practice of law in this State on behalf of anyone but himself or herself by a person who is not an admitted member of the Bar, regardless the authority purportedly conferred by the execution of a power of attorney" People ex rel. Field on Behalf of Field v. Cronshaw (138 Ad2d 765 (2d Dept. 1988) app. dismissed by 72 NY2d 872 citing Judiciary Law 478, 484; New York Criminal and Civ Cts. Bar Assn. v. Jacoby 61 NY2d 130, 136). "A person not licensed to practice law in the State of New York pursuant to the Judiciary Law may not appear pro se in court on behalf of a litigant as an attorney-in-fact pursuant to a power of attorney. A person who does so has unlawfully engaged in the unauthorized practice of law. General Obligations Law §5-1502A(10), which permits an attorney-in-fact to prosecute or defend an action arising from a real estate transaction on behalf of his or her principal, only applies to the decision to prosecute or defend, not to representation as an attorney-at-law." (Whitehead v. Town House Equities, Ltd., 8 AD3d 369 (2d Dept. 2004)).

Accordingly, the complaint is dismissed.

Dated: April , 2007

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J.S.C.