

SCAR

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. JOHN W. BURKE

Justice

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SAUL L. EAGLE,

TRIAL/I.A.S. PART 3  
NASSAU COUNTY

Plaintiff,

INDEX NO. 6724/00

-against-

A.S.T. INVESTMENT CO., LLC, SONDRA  
CIVITANO and BERT GLECKEL,

MOTION DATE: 11/3/00  
MOTION NO. 001

Defendants.

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Upon the foregoing papers, it is ordered that this motion by defendants to dismiss the Complaint pursuant to CPLR §3211(1) (4) (7) (8) (10) or, in the alternative, to transfer the venue of this action to New York County pursuant to CPLR §511 and for such other and further relief as the court deems proper, including costs and disbursements, is disposed of as hereinafter provided.

This action involves a mortgage on two properties both of which are located in New York City, one in New York County and one in the Bronx. The New York County real estate is owned by plaintiff, Saul Eagle, (or his wife, Maureen Eagle), and the defendant, A.S.T. Investment Co., LLC is the mortgagee. It is alleged that the individual defendants are the principals in A.S.T. Dominick Civitano, the spouse of defendant, Sondra Civitano, may have an unrecorded interest in the property located in New York County, which property is the principal focus of this action.

In this action the plaintiff seeks judgment against the defendants in the sum of \$500,000 and judgment declaring that the mortgage held by A.S.T. be merged in the "ownership of Dominick Civitano".

There is an action pending in New York County between Dominick Civitano, plaintiff, and Saul Eagle, defendant (Index No. 123892/99) in which plaintiff seeks money damages and judgment declaring plaintiff to be a one-half owner in the New York County property. There is a second action in New York County between A.S.T. Investment Co., LLC, as plaintiff, and Maureen Eagle, Saul

Eagle and others, as defendants, (Index No. 10922/00) which seeks a judgment declaring that the mortgage be foreclosed against both the New York County premises and the Bronx premises and that the properties be sold, for the appointment of a receiver and for a deficiency judgment.

Finally, the plaintiff seeks to designate Bronx County as the place of trial for this action.

CPLR §507 provides that "[t]he place of trial of an action in which the judgment demanded would affect the title to, or the possession, use or enjoyment of, real property shall be in the county in which any part of the subject of the action is situated".

Accordingly, the motion is granted to the extent that this action shall be transferred to New York County by the Nassau County Clerk upon receipt of a copy of this order and the appropriate fees and is otherwise denied with leave to renew in New York County. The attorneys for the parties in this action are stayed from proceeding with the New York County actions unless otherwise directed by the Supreme Court, New York County.

Movant shall serve a copy of this order upon the Nassau County Clerk and upon the New York County Clerk and shall pay the appropriate fees, if any. Movant shall also serve a copy of this order upon the attorneys for all parties to this action and the actions pending in New York City within 10 days of the date hereof.

Dated: JAN 17 2001

  
J. S. C.

**ENTERED**

JAN 18 2001

NASSAU COUNTY  
COUNTY CLERK'S OFFICE