

Montgomery v. 215 Chrystie LLC

Supreme Court of New York, Appellate Division, First Department

January 13, 2022, Decided; January 13, 2022, Entered

Index No. 158146/20, Appeal No. 15067 Case No. 2020-04623

Reporter

156 N.Y.S.3d 855 *; 2022 N.Y. App. Div. LEXIS 254 **; 2022 NY Slip Op 00253 ***; 2022 WL 119952

[***1] *Catherine Montgomery*, Plaintiff-Appellant, v 215 Chrystie LLC, et al., Defendants-Respondents.

Notice: THE PAGINATION OF THIS DOCUMENT IS SUBJECT TO CHANGE PENDING RELEASE OF THE FINAL PUBLISHED VERSION.

THIS OPINION IS UNCORRECTED AND SUBJECT TO REVISION BEFORE PUBLICATION IN THE OFFICIAL REPORTS.

Prior History: [**1] Order, Supreme Court, New York County (David B. Cohen, J.) entered on or about October 23, 2020, which denied plaintiff's motion for a preliminary injunction, unanimously affirmed, without costs.

Core Terms

noise

Counsel: Lambert & Shackman, PLLC, New York (Thomas Charles Lambert of counsel), for appellant.

Meister Seelig & Fein LLP, New York (Remy J. Stocks of counsel), for respondents.

Judges: Before: Acosta, P.J., Manzanet-Daniels, González, Mendez, Rodriguez, JJ.

Opinion

[*855] Plaintiff's motion was properly denied because the preliminary injunction she seeks is tantamount to the ultimate relief sought on the first cause of action (*see Jones v Park Front Apts., LLC, 73 AD3d 612, [*856] 901 N.Y.S.2d 46 [1st Dept 2010]*). In addition, the evidence supports defendants' contention that the harm to plaintiff in maintaining the status quo while awaiting trial on her claims is compensable by measurable money damages and therefore not irreparable (*see Louis Lasky Mem. Med. & Dental Ctr. LLC v 63 W. 38th LLC, 84 AD3d 528, 924 N.Y.S.2d 324 [1st Dept 2011]*). Defendants provided plaintiff with a hotel room while they sought to remediate the noise, and plaintiff has not complained of unreasonable noise in her second bedroom.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: January 13, 2022

End of Document