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Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: HONORABLE FREDERICK D. R. SAMPSON IA Part 31
Justice

HALL LONG ISLAND CITY, LLC x

Index
Number 11471/10 2010

- against -

Motion
Date September 30, 2010

QUEENS PLAZA NORTH, LLC, et al.
x

Motion
Cal. Number 20

Motion Seq. No. 1

The following papers numbered 1 to 10 read on this motion by defendants Queens Plaza North, LLC (Queens Plaza), Hafeez Choudhary and Mark Farruqui to dismiss the complaint against them pursuant to CPLR 3211(a)(1), (3) and (7).

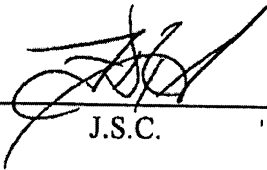
	Papers Numbered
Notice of Motion - Affidavits - Exhibits	1-5
Answering Affidavits - Exhibits	6-7
Reply Affidavits	8-10

Upon the foregoing papers it is ordered that the motion is granted.

The individual defendants Choudhary and Farruqui are managing members of defendant Queens Plaza which operates a Holiday Inn Hotel in Long Island City. Plaintiff Hall Long Island City, LLC (Hall) is part of a financial group which loaned several million dollars to defendants, taking a mortgage on the subject property. The loan was renegotiated several times. Plaintiff Hall assigned its interest in the subject mortgage to nonparty Bank of America as security and collateral for a subsequent loan. It is undisputed that none of these loans have been repaid.

Under New York law, an assignment of a mortgage as collateral security results in a pledge, not a sale, of the bond and mortgage, and the assignee acquires a defeasible title thereto, subject to termination upon payment of the debt for which the mortgage was assigned as security. That defeasible title ends upon payment of the debt, leaving the ownership in the assignor precisely as if no transfer had been made (*Desser v Schatz*, 182 AD2d 478 [1992]). Herein, since Hall assigned its interest in the subject mortgage as security to Bank of America, and since it is undisputed that none of the aforementioned loans have been repaid, Hall has no standing to bring the instant action against the moving defendants.

Dated: January 21, 2011



J.S.C.

QUEENS COUNTY CLERK
FILED RECORDED
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