

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS: HOUSING PART O

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LEFFERTS 750, LLC,

Index No. 320492-22

Petitioner,

-against-

DECISION AND ORDER

LUCI BASTON, JOHN DOE,
And JANE DOE,

Respondents.

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Present:

Hon. Sergio Jimenez
Judge, Housing Court

This holdover proceeding seeks recovery of the property at 750 Lefferts Avenue, Apartment A7, in Brooklyn, New York 11203. Respondent Luci Batson (hereinafter as respondent) alleged a defense of succession rights stemming from her non-traditional family relationship with the tenant of record Mercedes Novels. This proceeding was transferred from the resolution part to the trial part on March 17, 2023. The court commenced October 30, 2023 and concluded on January 29, 2024. The court then reserved decision.

Hearing

The parties entered into a stipulation settling a variety of evidentiary matters on October 30, 2023. Respondent consented to petitioner’s prima facie presentation and entered into evidence Pa (Deed – NYSCEF 13), Pb (DHCR 2019 – NYSCEF 14), Pc (DHCR 2020 – NYSCEF 15), Pd (DHCR 2021 – NYSCEF 16), Pe (DHCR 2022). Respondent also consented to jurisdiction. As such, petitioner’s prima facie burden was met.

The parties also consented to respondent’s evidences NYSCEF 18-33 (Mercedes Novels’ death certificate, Luci Batson NYS ID, immigration documents, 2015 Social Security documents,

2016 Social Security documents, 2017 Social Security documents, 2018 Social Security documents, 2019 Social Security documents, 2020 Social Security documents, High School Academic Summary, Brooklyn College transcript, 2015-2016 Chase statements, 2017-2018 Chase statements, 2017 Chase statements, 32 Chase checks, Click Pay rental statements, respectively). The respondent then, as per the answer, sought to prove a defense of succession rights. They presented seven (7) witnesses: Juan Batson, Kyria Mercedes Batson, Barbara Morgan, W. Frances Miller, Bryant Donoghue, Carlton Nalty and Luci Batson to make out their case. During the course of the testimony, respondent entered, over objection, into evidence R18 – a funeral pamphlet.

There is no reason for the court to recite all of the testimony presented over two days of trial¹. All seven witnesses, some direct family, some friends and neighbors, testified in some fashion or another that Ms. Batson (respondent) and Ms. Novels (deceased tenant of record) were considered sisters. Everyone testified about the length of time these two women knew each other, had been in one another's lives and that they shared the apartment. Ms. Novels, notably, sponsored Ms. Batson's first entry into the United States from Aruba. Neighbors who were familiar with the family saw them as a single family unit, who spoke to one another "like sisters²." Both of Ms. Batson's children referred to only knowing Ms. Novels as their aunt. As an example, Juan Batson testified that his mother only introduced, to other parties, Ms. Novels as her sister. Kyria Batson testified credibly that Ms. Novels was like a mother who helped raise her and heavily influenced her own fashion style.

In fact, during testimony two of Ms. Batson's children stated that they did not find out that Ms. Novels was not their mother's biological sister until they were in their twenties. Ms. Batson and her children testified as to how Ms. Novels would take the children, without Ms. Batson, to

¹ Only the facts deemed essential are required in either written or oral decision pursuant CPLR §4213.

² Ms. Barbara Morgan, neighbor from 770 Lefferts A11, credibly testified as to noting that they interacted thusly.

Aruba on holiday to visit family. All the witnesses also spoke about and the court finds that Thanksgivings, Christmases and holidays were celebrated by the family, including Ms. Novels and Ms. Batson. The court also finds, as a result of credible testimony, that Ms. Batson helped take care of Ms. Novels until her passing in January 2019.

Petitioner did not present any evidence in rebuttal.

Discussion

The watershed decision of *Braschi v. Stahl Assocs. Co.*, 74 NY2d 201 (1989) in the Rent Stabilization Code established criteria for finding a non-traditional familial relationship. Various factors were identified such as longevity of the relationship; mutual reliance for payment of expenses and necessities; intermingling of finances, shown as a matter of example by joint bank accounts; engaging in family-type activities like attending family functions together; formalizing of legal obligations by means such as naming one another as beneficiaries in wills and/or executions of powers of attorney; holding themselves out as family members to other family members, friends, community members, and religious institutions; reliance on each other for daily family services or functions; and other manifestations of a long-term emotionally-committed relationship. 9 N.Y.C.R.R. §2520.6(o)(2)(i)-(viii).

This analysis, though, is not just "check[ing] off which factors ... [R]espondent has successfully proven...." (*Lamarche v. Miles*, 234 N.Y.L.J. 88 [Civ. Ct. Kings Co. 2005]). It is a more involved analysis as to the relationship itself. As 9 N.Y.C.R.R. § 2520.6 (o)(2) specifically states that no single factor shall be solely determinative, "[t]he factors listed in the statute to consider in making the determination, such as sharing expenses and intermingling finances, are merely suggestions and not requirements" (*Wiener Mgmt. Co. v. Trockel*, 192 Misc 2d 696, 703 [Civ. Ct. Queens Co. 2002]). Even entirely missing a factor does not preclude a determination that

the respondent seeking to assert succession and the tenant of record had a “family-like relationship” (*Cozzolino v. New York State Division of Housing and Community Renewal*, 204 AD3d 494 [1st Dept, 2022]), “[T]he totality of the relationship as evidenced by the dedication, caring and self-sacrifice of the parties ... should, in the final analysis, control” (*Braschi*, supra, 74 NY2d at 213; *Matter of 530 Second Ave. Co., LLC v. Zenker*, 160 AD3d 160, 163 [1st Dept. 2018]).

Of importance is a line of cases in both the First and Second Departments that states that a lack of “legal and financial obligations is not dispositive” (*Jeremy Properties, LLC v. Franklin*, 81 Misc3d 135[A][App Term 2d Dept, 2nd, 11th and 13th Jud Dists, 2023]; *1035 Washington Realty, LLC v. Weston*, 67 Misc3d 138[A][App Term 2d Dept, 2020]; *178 East 70th Street LLC v. Woodward*, 66 Misc3d 151 [A][App Term 1st Dept 2020]; *Boston Tremont Housing Development Fund Corporation v. Dunbar*, 62 Misc3d 844 [Civ Ct Bronx County, 2018]). Here it is without dispute that the respondent, while having informal financial intermingling such as the splitting of the Verizon bills, did not have estate planning formalities with the former tenant of record.

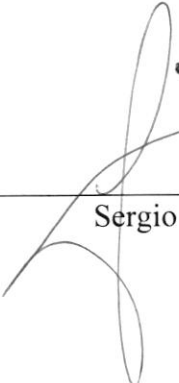
Out of the eight (8) factors to be contemplated in RSC §2520.6(o), respondent has demonstrated six (6) of them. Namely they have shown through the testimony and evidences a relationship spanning not merely years but a lifetime. That they shared and relied upon each other for payment of household or family expenses, that they engaged in family-type activities by celebrating holidays together, by holding themselves out as family members, by relying upon each other for daily family services and by evincing behavior that showed the intention of creating a long-term emotionally committed relationship. It is undisputed that the respondent and the tenant of record were cousins, but the manner in which they interacted since the late 1960s through the tenant of record’s death evinces something considerably closer. Further, the court understands that interpersonal relationships are complicated and not necessarily clearcut on legal standing, hence

the original need for the *Braschi* court's decision³. Especially in situations where parties are of limited financial means, *Roberts Ave Assocs. v. Sullivan*, 2003 NY Slip Op 51091[U][App Term 1st Dept. 2003], the lack of formal financial documents will not necessarily undermine a succession claim. Here, it is not in dispute that respondent has been on a fixed income and receiving Social Security payments since at least 2015. As such, the court may accept that there are not formal financial entanglements and still find that the respondent has made out a succession rights defense. The court does so in this situation.

Conclusion

For the above reasons, the petition is dismissed and respondent is entitled to a judgment of dismissal. The parties may pick up any exhibits submitted in Part O, but if it has not been done so within thirty (30) days from the date of this order, they will be discarded according to court directives. This constitutes the decision and order of the court.

Dated: January 30, 2024
Brooklyn, New York


Sergio Jimenez
Judge, Housing Court
Sergio Jimenez, JHC

³ At the time that *Braschi* was decided, New York State, along with most of the United States, was actively discriminating against the LGBTQ community by withholding the myriad of legal, financial and cultural protections embodied by marriage. While this proceeding does not deal with an LGBTQ relationship, the spirit of the court's decision embraces non-traditional relationships.

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