

Gonzalez, P.J., Tom, Richter, Manzanet-Daniels, Kapnick, JJ.

14483 Sharay Hayes, Index 104217/11
Plaintiff-Respondent,

-against-

Assets Recovery Center
Investments, LLC, et al.,
Defendants-Appellants,

John Olsen, et al.,
Defendants.

Stim & Warmuth, P.C., Farmingville (Glenn P. Warmuth of counsel),
for appellants.

Davis Ndanusa Ikhlas & Saleem, LLP, Brooklyn (Mustapha Ndanusa of
counsel), for respondent.

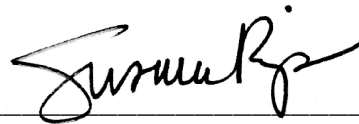
Order, Supreme Court, New York County (Paul Wooten, J.),
entered on or about November 29, 2013, which, to the extent
appealed from, denied in part defendants' motion to dismiss and
for summary judgment, unanimously reversed, on the law, without
costs, the motion granted, and the first, second, sixth, seventh
and eighth causes of action dismissed. The Clerk is directed to
enter judgment dismissing the complaint.

Defendants definitively showed that they were the holders of
the mortgage loan at the time plaintiff entered into the release
through the MERS Milestones printout (*see generally Matter of
MERSCORP, Inc. v Romaine*, 8 NY3d 90 [2006]). Plaintiff failed to

show that the bringing of a foreclosure action was a breach of the parties' mutual release, where that release expressly reserved defendants' right to bring such a proceeding. Finally, defendant 1M's bringing a holdover proceeding against plaintiff's subtenant, which it withdrew in the face of the subtenant's motion to dismiss, was not a breach of the release's promise that 1M would negotiate a one year lease with plaintiff. In light of these findings, plaintiff's claims for fraud in the inducement and breach of the release should have been dismissed. This necessitated the dismissal of the alter ego and conspiracy claims as well.

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

ENTERED: MARCH 12, 2015

A handwritten signature in black ink, appearing to read "Susan R. [unclear]", written over a horizontal line.

CLERK