

At Part 82 of the Supreme
Court of New York, Kings
County on the 4th day of
April, 2016

Present: Nina Kurtz
Referee

X
LUZ NUNEZ, Individually and as President of Creations
by Luz, Inc., CREATONS BY LUZ, INC., and IAN J. GAZES,
as Trustee of the Bankruptcy Estate of Luz Nunez,
Plaintiffs,

Index No. 49345/2001
Decision after trial

-against-

ANASTASIOS MOUSOURAS, RAYMOND MIERJESKI
and BERNARD MIERJESKI,

Defendants.
_____X

Pursuant to the order of Justice David I. Schmidt and upon the consent of the parties, a non-jury trial was held in the above named action for, *inter alia*, breach of contract and to impose a constructive trust upon property located at 757 4th Avenue in Brooklyn, New York (hereinafter "the property"). The property was purchased by t defendant Anastasios Mousouras (hereinafter "Mousouras") on or about April 9, 1992 while he was living with his girlfriend, Luz Nunez (hereinafter "Nunez"). Nunez claims that she is entitled to own at least 50% of the property based upon the parties confidential relationship, a promise to purchase the property together, reliance on that promise and unjust enrichment by Mousouras and/or breach of contract.

Pursuant to the decision and order of Justice Hubsher dated May 16, 2002, most of plaintiffs' claims are barred by the statute of limitations unless a 1998 signed agreement produced by Nunez is found to be validly entered into by Mousouras and Nunez. If this agreement is not found to be valid, then the constructive trust claims made by Nunez must fail. Based upon the credible evidence adduced at the trial, the following constitutes the findings of the Referee:

Nunez produced a copy of an alleged agreement dated March 20, 1998. There is no explanation of what happened to the original. There are serious improprieties with the notary on that agreement. The notary, Rosa Sepulveda, is deceased. It is unclear whether the parties signed the agreement before it was notarized or whether the notary stamp on the agreement was affixed before or after the document is dated. Moreover, both parties stipulated that Mousouras did not physically sign the agreement and that a signature stamp was used. All evidence surrounding this document is suspicious at best. The credible evidence does not support Nunez' claim that Mousouras entered into this agreement in 1998. Based upon all the credible evidence adduced at trial, together with the inherently suspicious nature of the document itself, it is the opinion of the Referee that the March 20, 1998 agreement is a fraudulent document created by Nunez without the knowledge or consent of Mousouras. Most if not all of Plaintiff's other claims were previously dismissed or found to be time barred. Any remaining viable claims are without merit.

Based upon the foregoing, the complaint is dismissed in its entirety and Judgement may be entered without further order of the Court or Referee.



Nina Kurtz, Referee