

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX TRIAL TERM - PART 15

Present: Hon. MaryAnn Brigantti-Hughes

BR 11

APR 06 2012

HAMAD ALI, 2591 REALTY, INC., 800 REALTY
CORP., and RKAN REALTY, LLC.,

Plaintiffs,

-against-

DECISION/ORDER

Index No.: 381035-11

FARES ALI, SELIM ZHERKA, SILAS METRO HOLDINGS
CORP., JAMES G. DIBBINI AND ASSOCIATES, P.C.,
JAMES G. DIBBINI, ESQ., SIGNATURE BANK, CUSTOM
TITLE SERVICES, INC.,

Defendants.

The following papers numbered 1 to 6 read on the below motions noticed on **December 5, 2011**
and duly submitted on the Part IA15 Motion calendar of **January 4, 2012**:

<u>Papers Submitted</u>	<u>Numbered</u>
Def.'s Affirmation in support of motion, exhibits, memorandum of law	1,2,3
Pl.'s Affirmation in Opposition, exhibits	3,4
Def.'s Affirmation in Reply	5

In an action involving an allegedly fraudulent real estate transaction, defendant, Signature Bank, has moved this Court for an order dismissing the complaint against it arguing that the complaint has not been pleaded with sufficient specificity to satisfy the pleading requirements of CPLR 3016 or 3013. Movant argues that plaintiff's claims fail to allege specific acts or omissions on its part and further, pursuant to CPLR 3016(b), this is a cause of action related to fraud and it is therefore subject to an even greater standard of specificity. The Court agrees that plaintiff's pleading of its Article 15 claims is insufficient under both CPLR 3016(b) and 3013 to allow Signature to be able to defend against the allegations that its lien interest in the subject properties is unjustly and wrongfully based upon fraud. As such, the motion is granted only to the extent of permitting plaintiff 60 days from entry of this order to amend its complaint so that

the statements therein are sufficiently particular to give the Court and the parties notice of the occurrences intended to be proved and the material elements of each cause of action.

This constitutes the Decision and Order of this Court.

Dated: April 3, 2012



Hon. Mary Ann Brigantti-Hughes, J.S.C.