

MTGLQ Invs., L.P. v Emego

Supreme Court of New York, Suffolk County

June 1, 2026, Decided

Index No. 607002/2018

Reporter

2026 N.Y. Misc. LEXIS 9049 *; 2026 NY Slip Op 26105 **; 2026 LX 391618

MTGLQ Investors, L.P., Plaintiff(s), v Anthony Emego,
et al., Defendant(s).

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THIS DECISION IS UNCORRECTED AND SUBJECT
TO REVISION BEFORE PUBLICATION IN THE
OFFICIAL REPORTS.

Core Terms

automatic stay, bankruptcy code, auction, defense
motion, referee's, bankruptcy filing, foreclosure, bidder,
realty, stone, deed, win

Counsel: [*1] KNUCKLES & MANFRO, LLP, Upper
Saddle River, NJ (Louis Levitan, Esq., of counsel) for
plaintiff;.

MADU, EDOZIE & MADU, P.C., Bronx, NY (Uchenna
Emelumadu, Esq., of counsel) for defendant.

Judges: Hon. Aletha V. Fields, AJSC.

Opinion by: Aletha V. Fields

Opinion

Aletha V. Fields, J.

[**1] Upon the motion papers (NY St Cts Elec Filing
[NYSCEF] Doc Nos. 100-119) considered on defendant
Anthony Emego's motion brought by order to show
cause (NYSCEF Doc No. 100) later redated (NYSCEF
Doc No. 116) seeking to vacate a referee's deed and
sale because defendant Anthony Emego had filed for
protection under the United States Bankruptcy Code
before the auction and thereby triggered the automatic
stay ([11 USC § 362 \[a\]](#)), it is hereby

ORDERED that defendant's motion be, and it hereby is,
DENIED with one bill of one hundred dollars motion
costs awarded to plaintiff against Anthony Emego
([CPLR 8202](#)).

Undisputed is that the foreclosure auction occurred on
July 23, 2025 (NYSCEF Doc No. 104, referee's report of
sale) and that a third-party purchaser, Manas
Development LLC was the winning bidder (id.). Also
undisputed is that defendant Anthony Emego filed a
petition with the United States Bankruptcy Court (EDNY)
on July 22, 2025 under docket number 8-25-72780
(NYSCEF [*2] Doc No. 109).

The July 2025 filing was not defendant's first filing, nor
was it defendant's second filing. It was at least
defendant's third filing. The other two filings were:

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Although the bankruptcy code affords relief to an honest
but unfortunate debtor ([Marrama v Citizens Bank of
Massachusetts, 549 U.S. 365 \[2007\]](#)) and implements
that relief from the moment of filing through a wide
reaching automatic stay of all litigation and proceedings
against the debtor and the debtor's property ([11 USC §
362 \[a\]](#)), the bankruptcy code has limits. One of those
limits is the pivotal issue in this motion. Because
defendant crossed over the limits, defendant was not
entitled to and did not receive an automatic stay in
respect of the July 2025 bankruptcy filing. Therefore, the
auction and transfer of the realty by referee's deed to
the winning bidder are valid. Defendant's motion is
denied.

The relevant limit is, "if a single or joint case is filed by
or against a debtor who is an individual under this title,
and if 2 or more single or joint cases of the debtor were
pending within the previous year but were dismissed,
other than a chapter 7 after dismissal [*3] under section
707 (b), the stay under [[11 USC § 362 \[a\]](#)] shall not go

into effect upon the filing of the later case" ([11 USC § 362 \[c\] \[4\] \[A\] \[ii\]](#)). Here, looking back one year from defendant's July 22, 2025 bankruptcy filing, the other two cases cited above had been filed and dismissed. Neither was dismissed under section 707 (b) of the bankruptcy code. Defendant is an individual. Therefore, when defendant filed the July 22, 2025 bankruptcy petition, the automatic stay was not in effect.

Even when the automatic stay ([11 USC § 362 \[a\]](#)) does not go into effect, a bankruptcy debtor like this defendant on the July 22, 2025 petition has bankruptcy code rights to seek a stay ([11 USC § 362 \[c\] \[4\] \[B\]](#)), but nothing in this record shows that defendant sought such relief. Even if defendant had sought such relief, it was not granted before the foreclosure sale, so any such stay would not invalidate the sale (***Stone v Viegelahn [Matter of Stone]***, 814 Fed Appx 857 [5th Cir 2020]). Therefore, here where neither the automatic stay nor a stay upon debtor application was in effect, the auction and transfer of the realty were valid.

Defendant's motion is denied.

Dated: June 1, 2026

Riverhead, New York

ENTER

Hon. Aletha V. Fields, AJSC