

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. ROY S. MAHON

Justice

SANDRA DATENA,

Plaintiff(s),

- against -

JPMORGAN CHASE BANK and REBA SINGH,

Defendant(s).

TRIAL/IAS PART 8

INDEX NO. 18724/08

**MOTION SEQUENCE
NO. 1**

**MOTION SUBMISSION
DATE: February 25, 2009**

The following papers read on this motion:

**Notice of Motion
Memorandum of Law**

**X
XXX**

Upon the foregoing papers, the motion by the defendants JPMorgan Chase Bank for an Order pursuant to CPLR 3211(a)(1) and (7) dismissing plaintiff's complaint against Chase in its entirety, is determined as hereinafter provided:

This action arises out of a deed dated July 21, 2003 that was recorded in the Nassau County Clerk's Office on August 1, 2003. In pertinent part and germane to the instant application, the deed sets forth:

"THIS INDENTURE, made the 21 Day of July, Tow Thousand and three
BETWEEN

JOHN H. ARMSTRONG and PATRICIA M. ANDREOLI nkm PATRICIA M. ARMSTRONG
2017 Pine Street, Baldwin, New York 11510

party of the first part, and

SANDRA DATENA and REBA SINGH, as Joint Tenants
136 Park Avenue, Freeport, New York 11520

party of the second part,"

The defendant JPMorgan Chase Bank has docketed a default judgment lien against the foregoing property at 2017 Pine Street, Baldwin, NY that said defendant obtained against the defendant Reba Singh.

The plaintiff contends that the lien is improper as the plaintiff did not intend to convey any present interest to Reba Singh, the plaintiff's daughter. The Court notes that the words "as joint tenants" is hand written on the deed.

In examining the issue of the construction of a deed, the Court in **Coleman v Village of Head of the Harbor**, 163 AD2d 456, 558 NYS2d 594 (Second Dept., 1990) stated:

"We further note that the plaintiff's reference, in his affidavit in support of his motion for summary judgment, to correspondence in 1971 between himself and NCI, is of no import since parol evidence is inadmissible to explain, vary or contradict a deed which is clear and unambiguous (*see, Loch Sheldrake Assocs. v Evans*, 306 NY 297, 118 NE2d 444; *Mercury Bay Boating Club, Inc. v San Diego Yacht Club*, 150 AD2d 82, 90, 545 NYS2d 693)."

Coleman v Village of Head of the Harbor, supra at 596

The Court finds that from a review of the deed in issue that the language of the deed as to joint tenancy is clear and unambiguous on its face (*see, Coleman v Village of Head of the Harbor, supra*). As such, the defendant JPMorgan Chase Bank's application for an Order pursuant to CPLR 3211(a)(1) and (7) dismissing plaintiff's complaint against Chase in its entirety, is **granted**.

SO ORDERED.

DATED: 4/21/2009

.....
Ray S. Malloy
.....
J.S.C.