



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com  
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

## Family Can Stay In NYC Brownstone For Now, Judge Finds

By **Emma Whitford**

Law360 (February 28, 2022, 1:37 PM EST) -- A family fighting to hold on to a brownstone in Brooklyn's Crown Heights neighborhood can stay there for now, a housing court judge ordered Monday, affording them time to begin pursuing deed fraud claims without facing immediate eviction.

Landlord Menachem Gurevitch should have notified the court when he learned that resident Sherease Torain had applied for the state's Emergency Rental Assistance Program, Judge Jack Stoller said in a Monday order. This would have landed the case on a special calendar where a judge could "exercise oversight," he wrote.

Yet "the record... shows no evidence that petitioner [Gurevitch] submitted the ERAP notice form to the court," according to the order.

A court-wide administrative order says tenants cannot be evicted while an application to the Emergency Rental Assistance Program is either pending or under appeal, Judge Stoller noted, restoring possession of 964 Park Place to the family in the near-term.

Although Torain's initial application was denied, she and Gurevitch dispute whether she has submitted an appeal. That question is for Judge Stoller to decide "while the stay remains in effect," he ordered.

Monday's decision is a victory for Torain's family, as well as the tenant groups that have **rallied around** them in recent weeks, keeping a so-called "stoop watch" at the property since Gurevitch sought to evict Torain on Feb. 8.

Most significantly, the decision affords a buffer period for the family to pursue claims in state court that a fraudulent deed transfer in 2015 made them tenants in their own property.

Acting on behalf of Ida Robinson – Torain's elderly grandmother and the former owner of 964 Park Place – Adam Birnbaum of Abrams Fensterman LLP told Law360 on Monday that he will soon be filing a suit in state Supreme Court.

Birnbaum will immediately seek a temporary restraining order blocking any eviction while he pursues fraud claims, he said. To win the restraining order, Birnbaum will have to demonstrate that his client is likely to succeed on the merits.

"We're thankful to Judge Stoller for giving us the chance to do what needs to be done," Birnbaum said. "Ida Robinson's house was stolen from her, and we intend to take whatever action is necessary to unwind those transactions in the Supreme Court."

Torain's family has been in and out of court with Gurevitch for years, yet their fight burst into the spotlight this month when advocates helped Torain and her mother, Helen Robinson, re-enter the building after Gurevitch executed the Feb. 8 eviction.

Ida Robinson, who is 98, is not currently in the home because she is recovering from COVID-19, according to Torain and Helen Robinson.

According to a 2017 state Supreme Court order by Judge Dawn Jimenez-Salta, Ida Robinson agreed

to sell her title to the home in 2015 for \$800,000, with an option to buy the property back at a later date if certain conditions were met.

The order states that Ida Robinson's allegations of deed fraud at the time were precluded by agreements that had resolved all disputes over the property – agreements Birnbaum plans to argue were themselves rooted in fraud.

Meanwhile, Gurevitch has maintained that the fraud question was settled years ago. He secured a possessory judgment in January 2020 — though the actual eviction was delayed during the coronavirus pandemic — and says the family now owes him \$460,000 after failing to pay rent for six years.

In a statement Monday, a spokesperson for Gurevitch called Judge Stoller's order an "egregious misuse of measures created during the pandemic to help struggling tenants."

It is "disheartening," the spokesperson said, that "the respondents who sold the property for over \$800,000 [and] have ignored every judgment and court order for years are now being permitted to occupy a premises where they have lived rent free."

Even if Ida Robinson were to pursue new fraud claims, Gurevitch **has argued** in court, they would be precluded by the principle of res judicata, which blocks parties from litigating a claim "where a judgment ... exists from a prior action between the same parties involving the same subject matter."

Judge Stoller did not weigh in on the merits of the fraud claims Monday, but said he does not want to preclude the family from exploring them.

"This court, which does not have the subject matter jurisdiction to entertain respondent's cause of action, is loath to exercise its discretion to de facto foreclose that cause of action," he wrote.

Judge Stoller's order comes as New York **seeks additional federal funding** for its emergency rental assistance program, which has processed most of its roughly \$2.4 billion allotment.

Despite the current dearth of funding, advocates and attorneys have urged tenants to keep applying for ERAP in order to benefit from the associated eviction stay – one of the strongest remaining defenses to a residential eviction since a statewide pandemic-era law **expired** on Jan. 15.

Judge Stoller will schedule a status conference with the parties to discuss Torain's ERAP status in more depth, according to Monday's order.

The Crown Heights Tenant Union celebrated in a brief written statement, saying that its direct action, alongside fellow tenant group Brooklyn Eviction Defense, got "the goods."

"The Robinson family was restored to legal possession of their home by court order this morning," the group wrote. "The movement has done the impossible. Now, a long fight to return the deed."

Torain thanked the family's supporters during a brief press conference following Monday's decision.

"Had these groups not come in support we would not be sitting in this house right now," she said. "The people did the work. The people came out. Our neighbors defended us."

Gurevitch is represented by David Stern of Stern & Stern Esqs. and Anthony Coles of DLA Piper.

Torain is represented by Logan Schiff of Brooklyn Legal Services.

The case is Menachem Gurevitch v. Helen Robinson et al., case number 72639-18, in the Civil Court of the City of New York for Kings County.

--Editing by Alex Hubbard.

*Update: This story has been updated with further details and comment from Torain.*

All Content © 2003-2022, Portfolio Media, Inc.