STATE OF NEW YORK

4638

2019-2020 Regular Sessions

IN SENATE

March 19, 2019

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property actions and proceedings law, in relation to compelling the delivery of real property subject to a fraudulent transfer to the person entitled thereto and provides for the recording of judgments and orders relating to a fraudulent conveyance of title to property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 221 of the real property actions and proceedings law, as amended by chapter 507 of the laws of 2009, is amended to read as follows:

§ 221. Compelling delivery of possession of real property. **1. (a)** Where a judgment affecting the title to, or the possession, enjoyment or use of, real property allots to any person a distinct parcel of real property, or contains a direction for the sale of real property, or confirms such an allotment or sale, it also may direct the delivery of the possession of the property to the person entitled thereto, subject to the rights and obligations set forth in section thirteen hundred five of this chapter.

(b) Upon a finding by a civil or criminal court of competent jurisdiction that a transfer of title to real property was effected in whole or in part by fraud, the court in its written judgment shall direct the delivery of the possession of the property to the person who or entity that the court finds to be the last bona fide owner of the property prior to the fraudulent transfer and shall direct that title to such property be restored to such person or entity. The court shall arrange for the judgment and order to be provided to the offices of the recording clerk for the county or city in which the property is located. The recording clerk shall promptly record the judgment and order and place a notation on any documents deemed fraudulent by the court and on any

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD08691-04-9

documents relating to subsequent conveyances of title that were dependent upon the fraudulent conveyance and documents. Such notation shall reference the judgment and order and indicate the name of the person or entity legally entitled to possession of and title to the property.

(c) At the time of issuance of a judgment and order nullifying a fraudulent transfer of title to property and directing delivery of possession of the property to the person entitled thereto, as described in paragraph (b) of this subdivision, the court issuing such judgment and order shall provide notice of the judgment and order to any person or entity not a party to the proceedings who or that asserts an interest of record in and to the fraudulently transferred property based upon subsequent conveyances of title that were dependent upon the fraudulent conveyance and documents. Such person or entity shall be provided with an opportunity to be heard before the court within sixty days of being served with the notice of order for the purpose of preserving his or her interests in the property.

2. If a party, or his representative or successor, who is bound by the judgment, withholds possession from the person thus declared to be entitled thereto, the court, by order, in its discretion, besides punishing the disobedience as a contempt, may require the sheriff to put that person into possession. Such an order shall be executed as if it were an execution for the delivery of the possession of the property.

§ 2. This act shall take effect immediately.