§ 420.45 Post-trial motion relating to certain instruments affecting residential real property.

1. When a defendant has been convicted after a trial or pled guilty to any crime that affects the title to, encumbrance of, or the possession of, real property and where there is an instrument that is material to such encumbrance, transfer or purchase of said real property, the district attorney, the attorney general, or any law enforcement agency may file a motion in the supreme court in the county where the property that is the subject of the instrument is located or the prosecution occurred on behalf of the victim to void said instrument. Such motion must be in writing and state the county or borough, if in the city of New York, and block, lot, street address of such property, and a description of such property, and include a copy of the judgment of conviction. Notice must be given to all persons who have an interest in the property.

2. Within ten days after filing a motion pursuant to subdivision one of this section, the agency filing the motion shall record a copy of the notice of motion in the office of the clerk of the county in which the property is situated. The notice shall be indexed by the clerk in the manner prescribed by subdivision (c) of rule sixty-five hundred eleven of the civil practice law and rules for a notice of pendency of action and shall have the same effect as such notice.

3. The supreme court must conduct a hearing and make findings of fact essential to the determination whether to declare the instrument described in subdivision one of this section void ab initio. There will be a rebuttable presumption that where a party is convicted after a trial or a guilty plea to any crime that affects the title to, encumbrance of, or the possession of, real property and where there is an instrument that encumbers or is material to the transfer or sale of real property, that such instrument is void ab initio.

4. Upon the defendant's conviction of or guilty plea as described in subdivision one of this section, and after conducting a hearing pursuant to subdivision three of this section, a court shall make a determination

and if appropriate shall order that the instrument described in subdivision one of this section be declared void ab initio or grant other appropriate relief to the victim. The order of the court shall describe the nature of the false statement or false information contained in such instrument. A copy of such instrument shall be attached to the order of the court.

5. If the order relates to an instrument that has been filed with, registered, or recorded in a public office, a certified copy of such order shall be recorded in the office of the recording officer of the county in which such property is situated.

6. For purposes of this section, "all persons who have an interest in the property affected by such instrument" shall mean all parties who have recorded an instrument affecting the real property that is the subject of the instrument described in subdivision one of this section, any last record owner and anyone in residence during the pendency of the prosecution and any party with a lien against the property that is unsatisfied, or any other party that may claim to have liens or an interest in the property, and any current residents of the property, as of the date of the filing of the criminal information or indictment.

7. Nothing in this section shall be deemed to inhibit or prevent (a) relief otherwise provided by law, or (b) a party's right to appeal such order.