



## OMEGA EQUITIES CORPORATION v. MORRIS LEVY ET AL.

312 N.Y.S.2d 164 (1970) | Cited 0 times | New York Supreme Court | June 23, 1970

Action No. 1 by Omega Equities Corporation is upon a matured promissory note, delivered with certain conditions imposed upon it, every one of which has been honored by the payee. Defendants in that action have shown nothing to the contrary in their papers but have repeated, in opposition, the allegations of the complaint in Action No. 2, claiming that everything blends into a single transaction. This is not a basis for resistance to the claim upon the note (*Pease & Elliman v. 926 Park Ave. Corp.*, 23 A.D.2d 361, *affd.* 17 N.Y.2d 890), and the payee is entitled to summary judgment. Obviously, then, the application for consolidation is rendered academic. Since there is every indication of Omega's financial stability and its ability to satisfy any judgment against it that might eventuate in Action No. 2, we see no need to employ the expedient of stay of execution directed in *Dalminter Inc. v. Dalmine S.p.A.* (29 A.D.2d 852, *affd.* 23 N.Y.2d 653).

### Disposition

Order entered January 27, 1970 denying motion of plaintiff-appellant in Action No. 1 for summary judgment and granting motion of plaintiffs-respondents in Action No. 2 for consolidation of the actions for trial, unanimously reversed on the law, with \$50 costs and disbursements to the appellant, the motion for summary judgment granted and that for consolidation denied.

