

Mazzarelli, J.P., Sweeny, Richter, Manzanet-Daniels, Feinman, JJ.

2587N Stillwell Café, Inc., et al., Index 21236/13E
 Plaintiffs-Appellants,

-against-

1680 Eastchester Realty Corp.,
Defendant-Respondent.

Trivella & Forte, LLP, White Plains (Arthur J. Muller III of
counsel), for appellants.

Adam Leitman Bailey, P.C., New York (Jeffrey R. Metz of counsel),
for respondent.

Order, Supreme Court, Bronx County (Julia I. Rodriguez, J.),
entered August 21, 2015, which granted defendant's motion to
vacate the default judgment entered against it after inquest, and
granted leave to serve an answer, unanimously affirmed, without
costs.

Defendant is not entitled to relief under CPLR 5015(a).
Defendant failed to demonstrate a reasonable excuse for its
default even though there has been extensive litigation between
the parties over the premises, and the person (Michael Verini)
who was defendant's chief executive officer, principal executive
officer, and registered agent, passed away around the time the
default occurred, because there is no explanation as to what
prevented defendant from updating its entity information with the

Secretary of State (*see Eugene Di Lorenzo, Inc. v A.C. Dutton Lbr. Co.*, 67 NY2d 138, 141 [1986]; *Diggs v Karen Manor Assoc., LLC*, 117 AD3d 401, 402-403 [1st Dept 2014]; *J & S Constr. of NY, Inc. v 321 Bowery LLC*, 39 AD3d 391 [1st Dept 2007])).

However, we find that vacatur of the judgment is appropriate under CPLR 317. Defendant established that it did not receive actual notice of process in time to defend the action by submitting the affidavit of Thomas Verini, Michael's son who was involved in the affairs of defendant (*see Arabesque Recs. LLC v Capacity LLC*, 45 AD3d 404 [1st Dept 2007]). Defendant has also demonstrated that it has a meritorious defense, as the Appellate Term has determined that defendant made a sufficient showing of a meritorious claim for nonpayment of rent by plaintiffs (32 Misc 3d 128[A], 2011 NY Slip Op 51253[U] [App Term, 1st Dept 2011]), and plaintiffs make no challenge to this finding on the appeal.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: DECEMBER 29, 2016


CLERK