

CPLR Art. 52: Court Voids Assignment of Judgment to Buyer of Judgments for the Purpose of Execution

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alence of "sewer service" and the consequent abundance of default judgments.¹¹⁸

ARTICLE 52 — ENFORCEMENT OF MONEY JUDGMENTS

CPLR art. 52: Court voids assignment of judgment to buyer of judgments for the purpose of execution.

New York has established a public policy against champerty and maintenance,¹¹⁹ presently embodied in section 489 of the Judiciary Law,¹²⁰ which prohibits the purchase of claims by persons engaged in the business of buying claims for the purpose of bringing an action or proceeding thereon. In *Bottenus v. Blackman*,¹²¹ the Supreme Court, Nassau County, recently applied the statute to void an assignment of a judgment to a person in the business of buying judgments who sought to execute thereon.

The respondent, admittedly in that business, acquired a judgment against the petitioners for a nominal consideration and sought to levy on their home pursuant to CPLR 5236.¹²² Holding that the respondent was in the business of collecting claims,¹²³ that a money judgment is a claim,¹²⁴ and that the judgment enforcement procedure under CPLR article 52 is a proceeding within the purview of the Judiciary Law,¹²⁵ the court refused to enforce the judgment. "The essential policy considerations of section 489," the court concluded, "apply fully to the case at bar."¹²⁶

¹¹⁸ See DeFeis, *Abuse of Process and Its Impact on the Poor*, 46 ST. JOHN'S L. REV. 1 (1971).

¹¹⁹ See *Transbel Inv. Co. v. Roth*, 36 F. Supp. 396 (S.D.N.Y. 1940). Champerty is an arrangement under which an uninterested third party maintains another's suit, at his own expense, in consideration of receiving a part of the proceeds of the litigation. Maintenance is the support or promotion of the litigation of another. BLACK'S LAW DICTIONARY 292 (4th rev. ed. 1968).

¹²⁰ N.Y. JUDICIARY LAW § 489 (McKinney 1968).

¹²¹ 71 Misc. 2d 583, 336 N.Y.S.2d 790 (Sup. Ct. Nassau County 1972).

¹²² CPLR 5236 sets forth the procedure for the sale of real property to satisfy a judgment. The debtor's right of redemption after an execution sale has been abolished. See 6 WK&M ¶ 5236.02.

¹²³ 71 Misc. 2d at 584-85, 336 N.Y.S.2d at 793.

¹²⁴ *Id.* at 585, 336 N.Y.S.2d at 794, citing *Blackman v. Pincus*, 167 N.Y.L.J. 18, Jan. 26, 1972, at s 15, col. 3 (App. T. 2d Dep't); Roslyn Sav. Bank v. Jones, 69 Misc. 2d 733, 330 N.Y.S.2d 954 (Sup. Ct. Nassau County 1972).

¹²⁵ 71 Misc. 2d at 586, 336 N.Y.S.2d at 794-95, citing *Blackman v. Pincus*, 167 N.Y.L.J. 18, Jan. 26, 1972, at s 15, col. 3 (App. T. 2d Dep't); *Lee v. Community Capital Corp.*, 67 Misc. 2d 699, 324 N.Y.S.2d 583 (Sup. Ct. Nassau County 1971), discussed in *The Quarterly Survey*, 46 ST. JOHN'S L. REV. 561, 578 (1971). But see *Rosenkrantz v. Salvo Realty Corp.*, 65 Misc. 2d 467, 317 N.Y.S.2d 809 (Sup. Ct. Nassau County 1971); *People v. Berlin*, 65 Misc. 2d 245, 317 N.Y.S.2d 191, dismissed, 66 Misc. 2d 1034, 323 N.Y.S.2d 349 (Nassau County Ct. 1971); cf. *First Nat'l Bank v. Felder*, 69 Misc. 2d 812, 331 N.Y.S.2d 306 (Dist. Ct. Suffolk County 1972).

¹²⁶ 71 Misc. 2d at 587, 336 N.Y.S.2d at 795.