

## CCA § 1804: "Substantial Justice" in Small-Claims Case

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cedure, however, an authoritative appellate decision to this effect is necessary.

NEW YORK CITY CIVIL COURT ACT

CCA § 1804: "Substantial justice" in small-claims case.

CCA section 1804 directs the court to

[c]onduct hearings upon small claims in such manner as to do substantial justice between the parties according to rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence. . . .<sup>241</sup>

*Bierman v. City of New York*<sup>242</sup> demonstrates the usefulness and practicality of this section. The plaintiff's basement had been damaged when a water main ruptured in front of her home. She filed a claim for the property damage against the city who denied any liability for the damage. Moreover, the city informed her that since Consolidated Edison had been working on the main her claim should properly be brought against them. Plaintiff thereupon sued both the city and Consolidated Edison for \$300, the maximum judgment obtainable in a small-claims action.<sup>243</sup> Upon the conclusion of plaintiff's case, both defendants moved to dismiss the complaint on the ground she had failed to produce any evidence of negligence.

Judge Younger, referring to the previously mentioned section 1804, indicated that small-claims proceedings were intended to accomplish substantial justice between the parties according to the rules of substantive law. However, he expressed the view that in small-claims cases the greater emphasis must be placed upon an effort to do substantial justice as opposed to an attempt to comply with substantive law. It would not be economically feasible for one in the plaintiff's position to bear the burden of proving negligence on the defendants' part in an action seeking so small a judgment. Accordingly, Judge Younger concluded that the plaintiff need not shoulder that burden; substantial justice here required application of a rule of strict liability.

The result in small-claims cases such as *Bierman* is fair and equitable. The defendants, by virtue of their control, have the knowledge and ability to safeguard against occurrences of this nature. If that is impossible they may recoup any losses incurred in the manner suggested

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<sup>241</sup> CCA § 1804.

<sup>242</sup> 60 Misc. 2d 497, 302 N.Y.S.2d 696 (N.Y.C. Civ. Ct. N.Y. County 1969).

<sup>243</sup> CCA § 1801.

by the court: "Let them charge each person something so that no person pays everything."<sup>244</sup>

#### UNIFORM DISTRICT COURT ACT

*UDCA article 2: District court has power to adjudicate title questions for limited purposes.*

In *O'Frias v. Melton*,<sup>245</sup> the Second Department recently held that a judgment on a question of title in a summary proceeding lacks res judicata effect in a subsequent *action* brought to determine title in a different court. The decision as to the district court's lack of jurisdiction was based entirely upon article 2 of the UDCA. However, although the appellate division denied res judicata effect to the judgment, it nonetheless sanctioned the district court's determination of title questions in summary proceedings for the limited purpose of settling disputes raised in the particular proceeding. This is analogous to a court's award of temporary alimony; the matrimonial trial court is not bound by a prior decree for temporary alimony.<sup>246</sup> Both types of "temporary" determinations are obviously creatures of practicality.

The *O'Frias* court did, however, find the district court's judgment had res judicata effect for quite a different reason. The parties had incorporated in the judgment a stipulation relating to title. Had the plaintiffs complied with the stipulation, they would have obtained title to the property in question. But, having failed to do so, the court held that their default precluded their bringing this action. This holding is somewhat questionable because it seemingly permits the parties to give the district court the requisite subject matter jurisdiction which it otherwise lacks.<sup>247</sup>

As recognized by the court, there existed still another basis for dismissing the complaint. After the summary proceeding, but prior to this action, plaintiffs' action for specific performance was dismissed. This dismissal was unquestionably res judicata since it was a determination on the merits. Therefore, this more logical and less radical basis for the Second Department's holding supports the decision.

The decision is welcomed. A practitioner in summary proceedings should no longer encounter delays occasioned by stays which were necessary while a higher court determined the issue of title. Hence,

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<sup>244</sup> 60 Misc. 2d at 499, 302 N.Y.S.2d at 698.

<sup>245</sup> 32 App. Div. 2d 1046, 303 N.Y.S.2d 785 (2d Dep't 1969).

<sup>246</sup> 7B MCKINNEY'S UDCA § 204, supp. commentary 14, 15 (1968).

<sup>247</sup> See UDCA §§ 201, *et seq.*