CPLR 6214: Extension for Perfection of Attachment May Be Granted Even After Ninety-Day Limitation Period

St. John's Law Review

Follow this and additional works at: https://scholarship.law.stjohns.edu/lawreview

Recommended Citation
Available at: https://scholarship.law.stjohns.edu/lawreview/vol42/iss3/38

This Recent Development in New York Law is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in St. John's Law Review by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact lasalar@stjohns.edu.
CPLR 6214: Extension for perfection of attachment may be granted even after ninety-day limitation period.

CPLR 6214 provides that a levy upon any interest in personal property or debts made by service of an order of attachment is void after ninety days unless: (1) the sheriff has taken into his control the thing attached; or, (2) the plaintiff has commenced a special proceeding to compel payment or delivery of the res; or, (3) the plaintiff has procured an extension of the ninety-day limitation.

Under the CPA, where an action was in rem and the levy had not been perfected within the ninety-day period, the order of attachment as well as the levy became void. Since the in rem action was based upon the attachment, it had to be dismissed. However, because of the broad language used in CPLR 6214(e), some writers have felt that an extension of time may be given even after the levy has become void.

In Seider v. Roth, the appellate division, second department, granted an extension of time in which to perfect a levy on the defendant's interest in a liability insurance policy even though the ninety-day period had expired. Because of "the novelty of the question, the uncertain state of the law and the fact that the requirement of CPLR 6214 is largely ministerial as it relates to intangible property . . . ." the court thought it appropriate to grant an extension even though ninety days had already elapsed.

ARTICLE 75 — ARBITRATION

CPLR 7501: No right to jury trial on threshold questions.

In Liberty Mutual Insurance Co. v. Gottlieb, the insurer applied to stay arbitration of a claim against it, and sought an immediate jury trial on the issue of whether or not the automobile

165 WEINSTEIN, KORN & MILLER, NEW YORK CIVIL PRACTICE § 6214.15 (1965).
168 54 Misc. 2d 184, 281 N.Y.S.2d 596 (Sup. Ct. Queens County 1967).