

# **Bond Case Briefs**

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## **NEGLIGENCE - NEW YORK**

### **Merin v. City of New York**

**Supreme Court, Appellate Division, Second Department, New York - October 25, 2017 - N.Y.S.3d - 2017 WL 4799779 - 2017 N.Y. Slip Op. 07434**

Property owner brought action against the city, alleging negligence and a claim under § 1983 for violation of her due process rights arising out of a stranger's filing of a fraudulent deed with city's department of finance and office of the register, purporting to transfer the property to himself and then moved into the premises.

The Supreme Court, Queens County, dismissed the action. Property owner appealed.

The Supreme Court, Appellate Division, held that:

- Property owner failed to state a negligence claim, and
- Property owner failed to state a cause of action pursuant to § 1983 for violation of her due process rights.

Property owner failed to allege any particular act or promise on the part of the city, direct contact between the herself and a city agent, or her justifiable reliance on any act or promise by the city, and thus failed to allege a special duty owed to her by the city as required to state cause of action in negligence against city arising out of a stranger's filing of fraudulent deed with city's department of finance and office of the city register purporting to transfer her property to himself, and then moved into the premises.

Property owner failed to state a cause of action pursuant to § 1983 for violation of her due process rights arising out of a stranger's stranger's filing of fraudulent deed with city's department of finance and office of the city register purporting to transfer her property to himself, and then moving into the premises, since property owner only alleged such negligent conduct on part of the city.