Friedman, J.P., Renwick, Webber, Kahn, Kern, JJ.

In re Mr. White, L.L.C., Petitioner-Respondent,

Index 155915/17

-against-

Pink Shirt Construction, Inc., Respondent-Appellant.

White and Williams LLP, New York (Shruti Panchavati and Nicole A. Sullivan of counsel), for appellant.

Ronald Francis, New York, for respondent.

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Order and judgment (one paper), Supreme Court, New York

County (Arlene P. Bluth, J.), entered September 29, 2017, which

granted petitioner's application to vacate and cancel

respondent's mechanic's lien, unanimously affirmed, without

costs.

It was a provident exercise of the court's discretion to vacate and cancel respondent's mechanic's lien, because respondent failed to commence an action to enforce the lien, as prescribed by Lien Law § 59, the section under which this proceeding was commenced. Validity of the lien, and any dispute as to whether respondent completed the work required by the contract, were to be established at trial of that foreclosure action, which respondent concedes it never commenced (see S A F Sala Corp. v S & H 88th St Assoc., 138 AD2d 241, 242 [1st Dept

1988]).

We have considered respondent's remaining contentions and find them to be unavailing.

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

ENTERED: MARCH 21, 2019

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