

# NY Laundering Ruling Leans On Jurisdictional Fundamentals

By **Donald Hawthorne, Grace Condro and Kaitlyn Kocharian** (September 16, 2025)

The attractiveness of investment in New York real estate to foreign investors is well known.

Headlines from recent months — such as The Real Deal's "Foreign buyers and sellers are going strong in New York City" in July — reflect the continuing appeal of New York real estate, particularly in the luxury real estate market, where foreign buyers dominate.[1]

In recent years, New York courts have become increasingly willing to adjudicate foreign civil disputes on the basis that proceeds from alleged foreign misconduct have been laundered into high-end New York real estate. As the U.S. District Court for the Southern District Court put it in its 2017 decision in *City of Almaty v. Ablyazov*, "New York has a strong interest in ensuring that its real estate market is not utilized for the purpose of laundering money." [2]

Less clear is how far that principle extends. A broad view of the scope of money laundering jurisdiction could turn New York into the world's courtroom, open to hearing cases based on alleged activities around the globe, so long as the purportedly illicit proceeds are invested in New York real estate.

A June decision from the New York Appellate Division points toward limitations on this potentially expansive interpretation of the jurisdictional reach of New York courts. In its decision in *Zhakiyanov v. Ogai*, the First Judicial Department returned to jurisdictional fundamentals and dismissed a case brought by foreign plaintiffs against foreign defendants, where the only nexus to New York was the allegation that the defendants had purchased properties in New York with purportedly illicit proceeds obtained from foreign conduct. [3]

## The Background: Ablyazov and Unirea

In two cases from recent years — *Ablyazov* [4] and *Unirea Shopping Centre SA v. Adamescu*, [5] New York courts have allowed foreign plaintiffs to bring a cause of action in New York on the basis that assets obtained outside the U.S. were allegedly laundered through New York real estate, despite all relevant conduct otherwise occurring abroad.

In *Ablyazov*, Kazakhstani plaintiffs brought suit in the U.S. District Court for the Southern District of New York alleging that the defendant, a Kazakhstani citizen, had stolen funds from a Kazakhstani municipality and BTA Bank JSC — a Kazakhstani bank — through actions undertaken entirely in Kazakhstan.

The complaint alleged a conspiracy in "which prominent citizens of Kazakhstan purportedly looted billions of dollars from the City of Almaty" and the Kazakhstani bank, "and then laundered the stolen funds around the world, including ... by investing in New York City real



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estate projects." The only connection to New York was the allegation that stolen funds had been invested in U.S.-based real estate projects.

The defendants brought a motion to dismiss on forum non conveniens, a discretionary doctrine codified in New York state under New York Civil Practice Law and Rules, Section 327(a), that permits a court to dismiss a case over which it has jurisdiction if it deems another forum to be a more appropriate tribunal to hear the matter. The defendants argued that Switzerland would be a more appropriate forum.

In denying the motion, the court determined that the plaintiffs' choice of forum

"was 'motivated by legitimate reasons'" and that there was "a 'bona fide connection' between this lawsuit and the New York forum" given the purported laundering of stolen funds through New York real estate developments, thus entitling the forum selection to "substantial deference." [6]

The case was tried before a jury in 2022, which awarded the plaintiffs over \$100 million.

In *Unirea Shopping Centre v. Adamescu*, a Romanian company — Unirea Shopping Centre — brought suit in the New York County Supreme Court against Romanian citizens based on allegations that the defendants orchestrated a fraudulent scheme to embezzle millions of euros from the plaintiff through fictitious business transactions between Unirea and shell entities belonging to the defendants.

The only connection to New York was the allegation that the defendants formed a New York limited liability company to purchase a New York apartment, allegedly to launder funds stolen from the plaintiff.

The defendants brought a motion to dismiss under the doctrine of forum non conveniens, which the court denied in 2024. As in *Ablyazov*, the court concluded that because the real estate was located in New York, the purchase of the property occurred in New York and the purchasing entity was a New York LLC, the "[d]efendants ... failed to meet their heavy burden of establishing that New York is an inconvenient forum and that a substantial nexus between New York and the action [was] lacking." [7]

The court concluded that even though "a substantial amount of evidence and witnesses may reside in Romania, as the [a]partment is New York property, any prejudice to [d]efendants does not outweigh New York's interest in resolving claims involving the possession and ownership of the [a]partment." [8]

The *Unirea* case is presently stayed due to a pending Romanian criminal proceeding involving the defendants.

### **The Zhakiyanov v. Ogai Decisions**

In *Zhakiyanov v. Ogai*, the plaintiff, a Kazakhstani citizen, brought a claim against another Kazakhstani citizen based on purported wrongdoing in Kazakhstan on the theory that the proceeds of this alleged foreign wrongdoing had been laundered into New York real estate. This time, the result was different.

Last year, the New York County Supreme Court dismissed the complaint on grounds of the act of state doctrine and comity. [9] On June 3, in a 5-0 decision, the First Judicial Department affirmed on the alternative ground of forum non conveniens and, rather than

remanding the case to the trial court, dismissed the case on this discretionary ground itself.

The appellate decision observed that the plaintiffs and individual defendants were all Kazakhstani citizens, and that while the "plaintiff's residence is not dispositive, it is the 'most significant factor' in the forum non conveniens analysis." [10] The only New York entities involved were two LLCs that owned the New York real estate at issue, which the court found to be of limited relevance to the dispute. [11]

The Appellate Division further found that the purchases of New York and California real estate were "not at the heart of plaintiffs' claims" [12] — thereby focusing on the alleged foreign conduct rather than the U.S. properties allegedly purchased with the proceeds.

### **Implications for Forum Non Conveniens Dismissal of Laundering Claims**

It is worth noting that the Ablyazov and Unirea cases have some features that might arguably distinguish them from Zhakiyanov.

In Ablyazov, the defendant was a fugitive from justice in his own country, and evidence supported that he had no remaining assets in that forum. The defendants in Unirea were under criminal investigation in Romania, but the court's decision did not turn on the absence of any recoverable assets apart from the New York real estate. The complaint asserted only that the defendants had misappropriated payments from the plaintiff and that those funds had been used to purchase New York real estate.

The Appellate Division's holding in the Ogai case represents a return to jurisdictional first principles. In ordinary circumstances, a foreign case with no connection to New York, other than an allegation that proceeds were laundered into properties purchased there, does not present a convincing reason for a New York court to retain jurisdiction when adjudication could take place in a foreign forum where the underlying facts occurred and the witnesses and evidence are located — even if there is an argument that proceeds from the foreign wrongdoing can be traced to New York.

### **Implications For Legal Theories Supporting Laundering Claims**

The basis for civil liability in U.S. courts for money laundering is generally a claim for conversion or unjust enrichment. Those claims raise important issues that have been little discussed in the case law. Courts often hold that a claim for conversion requires the transfer of a good or a specific identifiable fund. [13]

Such a transfer may commence a new limitations period and provide a recovery from downstream assets. Whether an identifiable fund exists and whether it has been transferred are significant questions in a civil case alleging asset laundering.

An unjust enrichment claim may also provide recovery in some circumstances from traceable assets, but the statute of limitations for such claims generally runs from the initial purportedly illegal transfer, not from downstream asset transfers.

Whether downstream transfers are properly traceable also raises complex questions. In Zhakiyanov, the appellate court observed that the plaintiffs' complaint had not unequivocally alleged traceability, "stating only that '[d]iscovery in this action is reasonably likely to reveal' a connection, rather than identifying a traceable link.

### **Conclusion**

Plaintiffs will likely continue to bring claims in U.S. courts based on foreign conduct with no more connection to the forum than the claim that property located there was purchased with proceeds of the foreign conduct.

Recent case law suggests that where an alternative forum more closely linked to the conduct alleged exists, New York courts will likely subject such claims to a searching forum non conveniens analysis.

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***Disclosure: The authors represented the defendants in Zhakiyanov v. Ogai.***

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[1] TheRealDeal, Foreign buyers and sellers are going strong in New York City, available at: <https://therealdeal.com/new-york/2025/07/10/foreign-buyers-and-sellers-are-going-strong-new-york-city/> (last accessed Sept. 2, 2025).

[2] City of Almaty v. Ablyazov, 278 F. Supp. 3d 776, 810 (S.D.N.Y. 2017).

[3] Zhakiyanov v. Ogai, No. 2024-06942, 2025 N.Y. App. Div. LEXIS 3336 (1st Dept. June 3, 2025).

[4] Supra, note 1.

[5] Unirea Shopping Ctr. S.A. v. Adamescu, No. 656050/2021, 2024 N.Y. Misc. LEXIS 14604 (Sup. Ct., N.Y. Cnty. May 15, 2024).

[6] City of Almaty v. Ablyazov, 278 F. Supp. 3d at 793.

[7] Unirea Shopping Ctr. S.A. v. Adamescu, No. 656050/2021, 2024 N.Y. Misc. LEXIS 14604, at \*5.

[8] Id. at \*6-7.

[9] Zhakiyanov v. Ogai, Decision and Order on Motion, Ind. No. 652148/2024 (N.Y. Sup. Ct. Oct. 16, 2024).

[10] Zhakiyanov v. Ogai, No. 2024-06942, 2025 N.Y. App. Div. LEXIS 3336, at \*2.

[11] Id.

[12] Id.

[13] See, e.g., Thys v. Fortis Sec. LLC, 74 A.D.3d 546, 547 (1st Dept. 2010).