

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D12580
C/mv

_____AD3d_____

Argued - October 3, 2006

ROBERT W. SCHMIDT, J.P.
THOMAS A. ADAMS
PETER B. SKELOS
JOSEPH COVELLO, JJ.

2005-02985

DECISION & ORDER

Ludwig Husslein, Jr., etc., et al., appellants-respondents,
v Raymond Husslein, respondent-appellant.

(Index No. 447/00)

Genoa & Associates, P.C., Old Brookville, N.Y. (Marilyn K. Genoa of counsel), for appellants-respondents.

Charles A. Singer, Farmingdale, N.Y., for respondent-appellant.

In an action, inter alia, for a judgment declaring that the subject mortgage has been satisfied, the plaintiffs appeal, as limited by their brief, from so much of an order of the Supreme Court, Suffolk County (Doyle, J.), dated December 20, 2004, as denied their motion for summary judgment, and the defendant cross-appeals, as limited by his brief, from so much of the same order as denied his cross motion for summary judgment.

ORDERED that the order is affirmed insofar as appealed and cross-appealed from, without costs or disbursements.

Contrary to the parties' contentions, the Supreme Court properly denied the motion and cross motion for summary judgment in view of the existence of disputed issues of fact involving the satisfaction of a mortgage (*see Zuckerman v City of New York*, 49 NY2d 557, 562; *Sillman v Twentieth Century-Fox Film Corp.*, 3 NY2d 395, 404; *see also Matter of Goldin*, 227 AD2d 401).

SCHMIDT, J.P., ADAMS, SKELOS and COVELLO, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

November 14, 2006

HUSSLIN v HUSSLIN