

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

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_____AD3d_____

Argued - October 12, 2006

ANITA R. FLORIO, J.P.
GABRIEL M. KRAUSMAN
STEVEN W. FISHER
JOSEPH COVELLO, JJ.

2006-01125

DECISION & ORDER

Charles Gelo, et al., appellants, v City of New York,
defendant, Starr Realty Company (NE), LLC, defendants
third-party plaintiffs-respondents; Gianna Mechanical
Corp., third-party defendant-respondent (and a fourth-party action).

(Index No. 2158/04)

Bauman, Kunkis & Ocasio-Douglas, P.C. (DiJoseph & Portegello, P.C. [Arnold E. DiJoseph III and Norman I. Lida] of counsel), for appellants.

White Fleischner & Fino, LLP, New York, N.Y. (Nancy Davis Lyness of counsel),
for defendants third-party plaintiffs-respondents.

Armienti DeBellis & Whiten, LLP, New York, N.Y. (Vanessa Corchia of counsel),
for third-party defendant-respondent.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal, as limited by their brief, from so much of an order of the Supreme Court, Queens County (Flug, J.), dated December 30, 2005, as denied their motion for summary judgment on the issue of liability on their cause of action against the defendants Starr Realty Company (NE), LLC, Heartland Construction Corp., Review Avenue Construction Corp., and Heartland Land Construction Corp. alleging a violation of Labor Law 240(1) and, upon searching the record, awarded summary judgment to those defendants dismissing that cause of action insofar as asserted against them.

ORDERED that the order is affirmed insofar as appealed from, with one bill of costs.

November 21, 2006

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Contrary to the plaintiffs' contention, the Supreme Court properly searched the record and awarded summary judgment to the defendants third-party plaintiffs dismissing the cause of action alleging a violation of Labor Law 240(1) insofar as asserted against them since the permanently affixed ladder from which the injured plaintiff fell was a normal appurtenance to the building and was not designed as a safety device to protect the injured plaintiff from elevation-related risks (*see Gold v NAB Constr. Corp.*, 288 AD2d 434; *Norton v Park Plaza Owners Corp.*, 263 AD2d 531).

The plaintiffs' remaining contentions are without merit.

FLORIO, J.P., KRAUSMAN, FISHER and COVELLO, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court