

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

D13112
Y/cb

_____AD3d_____

Submitted - November 3, 2006

ANITA R. FLORIO, J.P.
WILLIAM F. MASTRO
REINALDO E. RIVERA
ROBERT A. SPOLZINO, JJ.

2005-11927

DECISION & ORDER

Robert Adelman, respondent, v Michael C. Rackis,
etc., defendant, Linda A. Rackis, appellant.

(Index No. 11851/99)

Avery J. Gross, Staten Island, N.Y., for appellant.

Robert Adelman, New York, N.Y., respondent pro se.

In a consolidated action, inter alia, for specific performance of an alleged agreement to transfer a deed to real property, the defendant Linda A. Rackis appeals from so much of an order of the Supreme Court, Richmond County (Gigante, J.), dated July 7, 2005, as, sua sponte, substituted the executor of the estate of Eliana R. Rackis, for the defendant Eliana R. Rackis in this action.

ORDERED that the appeal is dismissed, without costs or disbursements.

No appeal lies as of right from an order entered sua sponte (*see* CPLR 5701[c]), and the appellant has not sought leave to appeal. Under the circumstances of this case, we decline to grant leave (*see* CPLR 5701[a][2], [c]).

FLORIO, J.P., MASTRO, RIVERA and SPOLZINO, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

December 19, 2006

ADELMAN v RACKIS