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

D13377
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_____AD3d_____ Argued - December 1, 2006

ROBERT W. SCHMIDT, J.P.
FRED T. SANTUCCI
ROBERT A. LIFSON
JOSEPH COVELLO, JJ.

2005-06598
2005-06600 DECISION & ORDER

Came Realty, LLC, respondent-appellant, v
Canadian Imperial Bank of Commerce, appellant-respondent.

(Index No. 7914/02)

Snow Becker Krauss, P.C., New York, N.Y. (Michael Wexelbaum and Kenneth E. Citron of counsel), for appellant-respondent.

Scheinert & Kobb, LLC, Nanuet, N.Y. (Joel L. Scheinert of counsel), for respondent-appellant.

In an action, inter alia, to recover damages for breach of contract, the defendant appeals from a judgment of the Supreme Court, Rockland County (Nelson, J.), dated June 14, 2005, which, after a nonjury trial on the issue of damages, and upon a decision of the same court dated June 7, 2005, is in favor of the plaintiff and against it in the principal sum of $420,000, and the plaintiff cross-appeals from (1) the decision, and (2) so much of the judgment as awarded it the principal sum of only $420,000.

ORDERED that the cross appeal from the decision dated June 7, 2005, is dismissed, without costs or disbursements, on the ground that no appeal lies from a decision (*see Schicchi v Green Constr. Corp.,* 100 AD2d 509); and it is further,

ORDERED that the judgment is affirmed, without costs or disbursements.

Upon review of the findings of fact rendered after a nonjury trial, "[i]f the credible evidence in the record indicates that a different finding from that of the trial court is not unreasonable, this court must weigh the relative probative force of conflicting testimony as well as conflicting inferences which may be drawn therefrom," and then "render the judgment it finds warranted by the facts, taking into account that in a close case, the Trial Judge has the advantage of viewing the witnesses" (*Fasano v State of New York,* 113 AD2d 885, 888; *see We're Assoc. Co. v Rodin Sportswear Ltd.,* 288 AD2d 465; *U.S. No. 1 Laffey Real Estate v Hanna,* 215 AD2d 552). We find no reason to disturb the trial court's valuation of the subject property, which fell within the range of the competing appraisals (*see Rockland Dev. Assoc. v State of New York,* 15 AD3d 381; *495 Cent. Ave. Corp. v Town of Greenburgh,* 237 AD2d 606).

The parties' remaining contentions are without merit.

SCHMIDT, J.P., SANTUCCI, LIFSON and COVELLO, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court