

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

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Submitted - February 22, 2007

WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2006-05331

DECISION & ORDER

Igor Benfeld, et al., plaintiffs, v Fleming Properties, LLC, defendant, Bay Homes Realty, Inc., et al., defendants third-party plaintiffs-respondents; Rostislav Glakin, et al., third-party defendants-appellants.

(Index No. 13756/04)

Krol & O'Connor, New York, N.Y. (Igor Krol of counsel), for third-party defendants-appellants and defendant Fleming Properties, LLC.

Robinson Brog Leinwald Greene Genovese & Gluck, P.C., New York, N.Y. (Nicholas Caputo of counsel), for defendants third-party plaintiffs-respondents.

In an action, inter alia, to recover damages for breach of warranty, the third-party defendants, Rostislav Galkin and Dinara Galkina, appeal from an order of the Supreme Court, Richmond County (McMahon, J.), dated May 2, 2006, which denied their motion for summary judgment dismissing the third-party complaint, with leave to renew after the completion of discovery.

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

The Supreme Court did not improvidently exercise its discretion in denying the motion

March 27, 2007

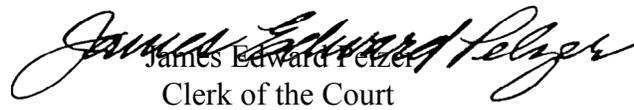
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for summary judgment with leave to renew after the completion of discovery (*see* CPLR 3211[d] and 3212[f]).

MASTRO, J.P., FLORIO, CARNI and McCARTHY, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court