

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

D14652  
G/gts

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - March 5, 2007

ROBERT W. SCHMIDT, J.P.  
ROBERT A. SPOLZINO  
ANITA R. FLORIO  
PETER B. SKELOS, JJ.

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2006-03582

DECISION & ORDER

Yaacov Sakizada, respondent-appellant, v  
GBR Realty, LLC, et al., appellants-respondents.

(Index No. 9677/04)

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Goldberg Weprin & Ustin, LLP, New York, N.Y. (Daniel A. Singer and Matthew E. Hearle of counsel), for appellant-respondent GBR Realty, LLC.

Altman & Altman, Bronx, N.Y. (Joseph A. Altman of counsel), for respondent-appellant.

In an action for specific performance of a contract for the sale of real property, the defendant GBR Realty, LLC, appeals, as limited by its brief, from so much of an order of the Supreme Court, Queens County (Weiss, J.), entered February 27, 2006, as denied that branch of the defendants' motion which was for summary judgment dismissing the complaint insofar as asserted against it, and the plaintiff cross-appeals from so much of the same order as denied his cross motion for summary judgment directing specific performance of the contract, and the defendant Aron B. Borukhov also appeals from the same order.

ORDERED that the appeal by the defendant Aron B. Borukhov is dismissed as abandoned, without costs and disbursements (*see* 22 NYCRR 670.8[e]); and it is further,

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

April 10, 2007

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In response to the showing by the defendant GBR Realty, LLC, of its entitlement to judgment as a matter of law, the plaintiff demonstrated that there are issues of fact precluding the grant of summary judgment. In light of the plaintiff's failure to establish a prima facie case on his cross motion, we need not address the parties' remaining contentions (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324; *Klein v Opert*, 218 AD2d 784, 785; *Adelman v Rackis*, 212 AD2d 559, 560).

SCHMIDT, J.P., SPOLZINO, FLORIO and SKELOS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer  
Clerk of the Court