

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

D15073  
W/cb

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

Argued - April 2, 2007

DAVID S. RITTER, J.P.  
FRED T. SANTUCCI  
RUTH C. BALKIN  
WILLIAM E. McCARTHY, JJ.

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2006-06911

DECISION & ORDER

Sycamore Realty Corp., et al., plaintiffs, James K.  
Noonan, appellant, v John Matone, et al., respondents.

(Index No. 15956/05)

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Arnold E. DiJoseph, P.C., New York, N.Y., for appellant.

Kenneth K. Frenkel, P.C., New York, N.Y., for respondents.

In an action, inter alia, pursuant to RPAPL article 15 to quiet title to real property, the plaintiff James K. Noonan appeals, by permission, as limited by his brief, from so much of an order of the Supreme Court, Kings County (Lewis, J.), dated April 19, 2006, as, sua sponte, appointed a temporary receiver to oversee the management of the real property.

ORDERED that the order is reversed insofar as appealed from, on the facts and in the exercise of discretion, with costs, and the temporary receiver is removed.

The Supreme Court improvidently exercised its discretion in, sua sponte, appointing a temporary receiver to oversee the management of an apartment building, the ownership of which is the subject of dispute in this action, since no “person having an apparent interest” in the apartment building sought such relief and there is no evidence that such a drastic remedy was warranted (CPLR 6401[a]; see *Natoli v Milazzo*, 35 AD3d 823, 824; *Rotary Watches [USA] v Greene*, 266 AD2d 527, 528).

May 15, 2007

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The parties' remaining contentions are without merit.

RITTER, J.P., SANTUCCI, BALKIN and McCARTHY, 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