

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

D16014
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_____AD3d_____

Argued - June 14, 2007

A. GAIL PRUDENTI, P.J.
WILLIAM F. MASTRO
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON, JJ.

2006-05746

DECISION & ORDER

Maric Piping, Inc., et al., respondents, v
Rajko Maric, et al., appellants.

(Index No. 4674/99)

Patterson Belknap Webb & Tyler, LLP, New York, N.Y. (John D. Winter and Elise Brown of counsel), for appellants.

McDonough Marcus Cohn Tretter Heller & Kanca, LLP, New Rochelle, N.Y. (Franklin E. Tretter and Eugene H. Goldberg of counsel), for respondents.

In an action for an accounting and to impose a constructive trust on the defendants' interest in a certain parcel of real property, the defendants appeal, as limited by their brief, from so much of a judgment of the Supreme Court, Queens County (Leviss, J.H.O.), dated May 4, 2006, as, after a nonjury trial, imposed a constructive trust upon the real property.

ORDERED that the judgment is affirmed insofar as appealed from, with costs.

The plaintiffs presented evidence that was sufficient to establish the elements of a constructive trust (*see Ubriaco v Martino*, 36 AD3d 793). The plaintiffs' claim for the imposition of a constructive trust was not time barred, because the defendant Rajko Maric first openly repudiated any interest that the plaintiffs Frank Maric and Maric Piping, Inc., might have had in the real property at issue in December 1998, less than six years before the plaintiffs commenced the instant action (*see* CPLR 213[1]; *Jakacic v Jakacic*, 279 AD2d 551, 552).

PRUDENTI, P.J., MASTRO, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

September 11, 2007

MARIC PIPING, INC. v MARIC