

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

D16181
X/hu

_____AD3d_____

Argued - January 23, 2006

HOWARD MILLER, J.P.
WILLIAM F. MASTRO
ROBERT J. LUNN
MARK C. DILLON, JJ.

2004-06868

DECISION & ORDER

John Xikis, respondent, v Maria Xikis, appellant.

(Index No. 14032/01)

Sager and Gellerman, Forest Hills, N.Y. (Audrey M. Sager of counsel), for appellant.

Dikman & Dikman, Lake Success, N.Y. (Michael Dikman of counsel), for respondent.

In an action for a divorce and ancillary relief, the defendant wife appeals from an order of the Supreme Court, Queens County (Strauss, J.), dated July 20, 2004, which denied her motion, inter alia, to set the valuation date of the plaintiff husband's separate real property as the date of trial. Justice Mastro has been substituted for former Justice Luciano (*see* 22 NYCRR 670.1[c]).

ORDERED that the appeal is dismissed, without costs or disbursements.

The appeal from the intermediate order must be dismissed because the right of direct appeal therefrom terminated with the entry of judgment in the action (*see Matter of Aho*, 39 NY2d 241, 248). The issues raised on appeal from the order are brought up for review and have been considered on the appeal from the judgment (*see Xikis v Xikis*, _____AD3d_____ [Appellate Division Docket No. 2006-01123, decided herewith]).

MILLER, J.P., MASTRO, LUNN and DILLON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

September 18, 2007

XIKIS v XIKIS