

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

D16284
O/kmg

_____AD3d_____

Submitted - January 29, 2007

REINALDO E. RIVERA, J.P.
PETER B. SKELOS
MARK C. DILLON
JOSEPH COVELLO, JJ.

2005-04266
2006-00769

DECISION & ORDER

Hanie Eng, et al., appellants, v Michael Sichenzia,
et al., defendants, Old Republic National Title Insurance
Company, respondent.

(Index No. 818/01)

Warren Wynshaw, P.C., Fishkill, N.Y., for appellants.

Kleinman, Saltzman & Bolnick, P.C., New City, N.Y. (Stanley Zwillinger of counsel),
for respondent.

In an action, inter alia, to recover damages for breach of contract, the plaintiffs appeal (1), as limited by their brief, from so much of an order of the Supreme Court, Putnam County (O'Rourke, J.), dated March 24, 2005, as denied their motion, in effect, for leave to amend the complaint, and (2) from an order of the same court dated December 6, 2005, which granted the motion of the defendant Old Republic National Title Insurance Company, in effect, pursuant to CPLR 3211(a)(7) to dismiss the complaint insofar as asserted against it.

ORDERED that the order dated March 24, 2005, is affirmed insofar as appealed from; and it is further,

ORDERED that the order dated December 6, 2005, is affirmed; and it is further,

ORDERED that one bill of costs is awarded to the respondent.

September 25, 2007

ENG v SICHENZIA

Page 1.

Under the circumstances of this case, accepting the facts alleged in the complaint as true and according the plaintiffs the benefit of every possible inference (*see Leon v Martinez*, 84 NY2d 83, 87-88), the Supreme Court properly granted the motion of the defendant Old Republic National Title Insurance to dismiss the complaint insofar as asserted against it.

The plaintiffs' remaining contentions either need not be considered in light of our determination or are without merit.

RIVERA, J.P., SKELOS, DILLON and COVELLO, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court