

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

D17342  
Y/kmg

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

Argued - November 26, 2007

HOWARD MILLER, J.P.  
STEPHEN G. CRANE  
MARK C. DILLON  
RUTH C. BALKIN, JJ.

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2006-08879  
2006-08883

DECISION & ORDER

Boris Motovich, plaintiff, v 1195 Coney Island Avenue Corp., et al., respondents, Roger Blank, appellant, et al., defendant.

(Index No. 4357/02)

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Hodgson Russ, LLP, New York, N.Y. (Daniel S. Steinberg of counsel), for appellant.

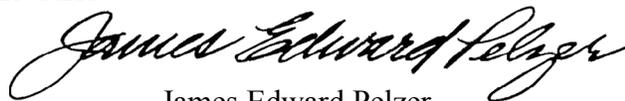
In an action, inter alia, for specific performance of a contract for the sale of real property, which was transferred to the Surrogate's Court, Kings County, the defendant Roger Blank appeals from (1) an order of the Surrogate's Court, Kings County (Lopez Torres, S.), dated June 12, 2006, and (2) a resettled order of the same court dated July 24, 2006, which granted the motion of defendants 1195 Coney Island Corp., Atlantic & Pacific Oil Co., Inc., and Samuel Ainbinder, individually and as co-administrator of the estate of Pearl Ainbinder, deceased, for summary judgment dismissing the complaint insofar as asserted against them.

ORDERED that the appeals are dismissed, without costs or disbursements.

The issues brought up for review on these appeals have been rendered academic by a settlement reached by the parties, and placed on the record in the Surrogate's Court, Kings County, on August 15, 2006. Pursuant to that settlement, to which the appellant consented, the subject realty was conveyed to the plaintiff. Accordingly, the appeals must be dismissed (*see Asher v Gigante*, 21 AD3d 916).

MILLER, J.P., CRANE, DILLON and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

December 18, 2007

MOTOVICH v 1195 CONEY ISLAND AVENUE CORP.