

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

D17889
C/prt

_____AD3d_____

Argued - December 14, 2007

REINALDO E. RIVERA, J.P.
ROBERT A. LIFSON
FRED T. SANTUCCI
JOSEPH COVELLO, JJ.

2006-09905

DECISION & ORDER

Szekiu Chung, respondent,
v Yung Tang, et al., defendants,
Tai Tang, appellant.

(Index No. 7322/05)

Arnold J. Ludwig, Brooklyn, N.Y., for appellant.

Laurence H. Olive, New York, N.Y., for respondent.

In an action, inter alia, for a divorce and ancillary relief, the defendant Tai Ting appeals, as limited by his brief, from so much of an order of the Supreme Court, Kings County (Prus, J.), dated July 24, 2006, as denied that branch of his motion which was pursuant to CPLR 3211(a)(8) to dismiss the complaint insofar as asserted against him on the ground of lack of personal jurisdiction.

ORDERED that the order is reversed insofar as appealed from, on the law, with costs, and that branch of the motion of the defendant Tai Tang which was pursuant to CPLR 3211(a)(8) to dismiss the complaint insofar as asserted against him on the ground of lack of personal jurisdiction is granted.

The appellant moved, inter alia, pursuant to CPLR 3211(a)(8) to dismiss the complaint insofar as asserted against him for lack of personal jurisdiction, alleging that he had never been served with process. In opposition to that branch of the motion which was pursuant to CPLR 3211(a)(8), the plaintiff furnished no evidence that the appellant was ever served with the summons and complaint in this action. Accordingly, that branch of the appellant's motion should have been granted (*see*

February 13, 2008

Page 1.

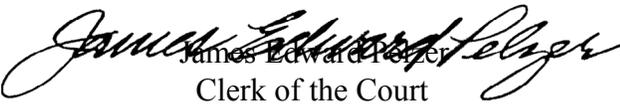
SZEKIU CHUNG v YUNG TANG

CPLR 3211[a][8]; CPLR 3211[e]; *Abrams, Fensterman, Fensterman, Flowers & Eisman, LLP v Alpern*, 20 AD3d 497; *Moustafa v Jamaica Hosp. Med. Ctr.*, 304 AD2d 539).

In light of our determination, it is unnecessary to reach the appellant's remaining contentions.

RIVERA, J.P., LIFSON, SANTUCCI, and COVELLO, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court