

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

D18518
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_____AD3d_____

Argued - February 25, 2008

STEVEN W. FISHER, J.P.
DANIEL D. ANGIOLILLO
RUTH C. BALKIN
JOHN M. LEVENTHAL, JJ.

2007-09491

DECISION & ORDER

Rockland Industries, Inc., appellant, v Robert
Horowitz, respondent, et al., defendant.

(Index No. 19765/06)

Saul Ewing, LP, New York, N.Y. (David C. Kistler and Charles Curlett of counsel),
for appellant.

Lazarus & Lazarus, P.C., New York, N.Y. (Harlan M. Lazarus of counsel), for
respondent.

In an action to enforce a judgment, commenced pursuant to CPLR 3213 by a motion
for summary judgment in lieu of complaint, the plaintiff appeals from so much of an order of the
Supreme Court, Queens County (Dollard, J.), dated June 14, 2007, as denied that branch of the
motion which was for summary judgment in lieu of complaint against the defendant Robert Horowitz.

ORDERED that the order is reversed insofar as appealed from, on the law, with costs,
and that branch of the motion which was for summary judgment in lieu of complaint against the
defendant Robert Horowitz is granted.

In 2006 the plaintiff obtained a judgment in the State of Maryland against the
defendants, upon their default in answering or appearing in the Maryland action. The defendant
Robert Horowitz moved in Maryland to vacate the judgment insofar as asserted against him on the
ground that he had not been properly served. The motion was denied. In September 2006, the
plaintiff commenced this action to enforce the Maryland judgment. The action was commenced
pursuant to CPLR 3213 by motion for summary judgment in lieu of complaint. Only Horowitz

April 1, 2008

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opposed the motion, arguing that the Maryland court had not obtained personal jurisdiction over him and that its judgment against him should not be given full faith and credit. The Supreme Court denied that branch of the motion which was for summary judgment in lieu of complaint against Horowitz. We reverse the order insofar as appealed from.

Horowitz appeared in the Maryland action and contested personal jurisdiction on several occasions. Since that jurisdictional issue was decided against him, the determination became res judicata and its relitigation was foreclosed in the New York courts (*see* US Const, art IV, § 1; *Stanton Wholesale v Barker*, 257 AD2d 902, 903; *Diamond R. Fertilizer Co. v Scheinthal*, 251 AD2d 445, 445-446; *cf. Fiore v Oakwood Plaza Shopping Ctr.*, 78 NY2d 572, 577, *cert denied* 506 US 823). Accordingly, the Supreme Court should have given full faith and credit to the Maryland judgment against Horowitz (*see Stanton Wholesale v Barker*, 257 AD2d 902; *Diamond R. Fertilizer Co. v Scheinthal*, 251 AD2d 445; *Ionescu v Brancoveanu*, 246 AD2d 414, 416).

FISHER, J.P., ANGIOLILLO, BALKIN and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court