

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

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Submitted - March 7, 2008

ROBERT A. LIFSON, J.P.
ANITA R. FLORIO
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2006-08997

DECISION & ORDER

Michael C. White, respondent, et al.,
plaintiff, v Salvatore Guerrera, appellant,
et al., defendants.

(Index No. 29992/03)

Scheyer & Jellenik, Nesconset, N.Y. (Stephen R. Jellenik of counsel), for appellant.

Richard Bartel, Remsenburg, N.Y., for respondent and for plaintiff Hamptons Structural, Inc. (one brief filed).

In an action, inter alia, to recover money owed pursuant to the terms of a joint venture agreement, the defendant Salvatore Guerrera appeals, as limited by his brief, from so much of a judgment of the Supreme Court, Suffolk County (Sgroi, J.), entered August 28, 2006, as, upon a decision of the same court dated May 17, 2005, made after a nonjury trial, is in favor of the plaintiff Michael C. White and against him in the principal sum of \$587,174.99.

ORDERED that the judgment is affirmed insofar as appealed from, with costs.

“In reviewing a determination made after a nonjury trial, the power of the Appellate Division is as broad as that of the trial court, and this Court may render the judgment it finds warranted by the facts, taking into account in a close case that the trial judge had the advantage of seeing the witnesses” (*ProHealth Care Assoc., LLP v Shapiro*, 46 AD3d 792, 793; *see Northern Westchester Professional Park Assoc. v Town of Bedford*, 60 NY2d 492). The trial court's determination regarding the expenses incurred by the parties in the improvement of the subject property is warranted by the facts, and we find no reason to disturb it.

April 8, 2008

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The appellant's remaining contention is without merit.

LIFSON, J.P., FLORIO, ENG and CHAMBERS, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court