

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

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_____AD3d_____

Submitted - March 26, 2008

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
JOSEPH COVELLO
WILLIAM E. McCARTHY
CHERYL E. CHAMBERS, JJ.

2007-03484

DECISION & ORDER

John Matone, et al., respondents, v Sycamore Realty Corp., appellant, et al., defendants.

(Index No. 21270/03)

Arnold E. DiJoseph, P.C., New York, N.Y. (Arnold E. DiJoseph III of counsel), for appellant.

Caruso, Caruso & Branda, P.C., Brooklyn, N.Y. (Grace M. Borrino of counsel), for respondents.

In an action, inter alia, to set aside a deed, the defendant Sycamore Realty Corp. appeals from an order and judgment (one paper) of the Supreme Court, Kings County (Lewis, J.), dated February 16, 2007, which granted the plaintiffs' renewed motion pursuant to CPLR 3215(a) for leave to enter judgment against it upon its default in appearing or answering, and to set aside the subject deed.

ORDERED that the order and judgment is affirmed, with costs.

On its renewed motion, the plaintiffs demonstrated their entitlement to the entry of a default judgment against the appellant. The plaintiffs submitted proof of service of the summons and complaint, proof of the facts constituting their claim, and proof of the appellant's default in answering or appearing (*see* CPLR 3215[f]; *Allstate Ins. Co. v Austin*, 48 AD3d 720; *Grinage v City of New York*, 45 AD3d 729).

April 22, 2008

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To avoid the entry of a default judgment, the appellant was required to demonstrate a reasonable excuse for its default and a meritorious defense to the action (*see* CPLR 5015[a][1]; *Petersen v Lysaght, Lysaght & Kramer, P.C.*, 47 AD3d 783; *Giovanelli v Rivera*, 23 AD3d 616). The appellant failed to satisfy either requirement. Therefore, the Supreme Court properly granted the plaintiffs' renewed motion.

SKELOS, J.P., SANTUCCI, COVELLO, McCARTHY and CHAMBERS, 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