

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

D19902  
C/nl

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Argued - March 10, 2008

REINALDO E. RIVERA, J.P.  
FRED T. SANTUCCI  
THOMAS A. DICKERSON  
ARIEL E. BELEN, JJ.

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2006-11712

DECISION & ORDER

Morris Erbesh NNE, Inc., et al., appellants,  
v Esther E. Schwartz, et al., respondents.

(Index No. 17242/03)

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Lawrence G. Nusbaum, Jr., New Rochelle, N.Y., for appellants.

Konove and Konove, P.C., White Plains, N.Y. (Ronald L. Konove of counsel), for respondents.

In an action, inter alia, for specific performance of an option contained in a lease to purchase real property, the plaintiffs appeal, as limited by their brief, from stated portions of a judgment of the Supreme Court, Westchester County (Rudolph, J.), dated December 14, 2006, which, after a nonjury trial, dismissed the first cause of action insofar as it was for specific performance.

Motion by the respondents to dismiss the appeal on the ground that the appeal is academic.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, and upon the argument of the appeal, it is

ORDERED that the motion is granted; and it is further,

June 24, 2008

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ORDERED that the appeal is dismissed as academic, without costs or disbursements.

We agree with the respondents that the closing on the subject property in December 2007 rendered this appeal academic.

RIVERA, J.P., SANTUCCI, DICKERSON and BELEN, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court