

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

D20476
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_____AD3d_____

Argued - September 2, 2008

ROBERT A. SPOLZINO, J.P.
DAVID S. RITTER
MARK C. DILLON
THOMAS A. DICKERSON, JJ.

2007-09531

DECISION & ORDER

Ruth Miller, et al., appellants, v Richard
Adamski, respondent.

(Index No. 15302/06)

Hoeherman Tortorella & Wekstein, LLP, White Plains, N.Y. (Adam L. Wekstein,
Geraldine N. Tortorella, and Noelle V. Crisalli of counsel), for appellants.

Nick Fiore, Pound Ridge, N.Y., for respondent.

In an action, inter alia, to quiet title to real property pursuant to RPAPL article 15, the plaintiffs appeal from an order of the Supreme Court, Westchester County (Bellantoni, J.), dated September 27, 2007, which denied, as premature, their motion for summary judgment declaring that they are the owners of the subject property.

ORDERED that the order is affirmed, with costs.

The Supreme Court providently exercised its discretion in denying the plaintiffs' motion for summary judgment on the ground that the motion was premature since discovery had not yet taken place (*see Ross v Curtis-Palmer Hydro-Elec. Co.*, 81 NY2d 494, 506; *Rengifo v City of New York*, 7 AD3d 773; *Lantigua v Mallick*, 263 AD2d 467, 468).

The plaintiffs' remaining contentions have been rendered academic in light of our determination.

SPOLZINO, J.P., RITTER, DILLON and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

September 30, 2008

MILLER v ADAMSKI