

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

D20645  
W/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - September 12, 2008

PETER B. SKELOS, J.P.  
JOSEPH COVELLO  
RUTH C. BALKIN  
THOMAS A. DICKERSON, JJ.

---

2007-04427

DECISION & ORDER

Wilfredo Lopez, appellant, v Celestial  
Church of Christ, Inc., et al., respondent.

(Index No. 46224/01)

---

Mkrtchian & Broderick, Forest Hills, N.Y. (Kenneth R. Berman of counsel), for  
appellant.

Windels Marx Lane & Mittendorf, LLP, New York, N.Y. (Scott R. Matthews of  
counsel), for respondent Celestial Church of Christ, Inc.

In an action to recover damages for personal injuries, the plaintiff appeals, as limited  
by his brief, from stated portions of an order of the Supreme Court, Kings County (Schmidt, J.),  
dated March 26, 2007, which, inter alia, granted that branch of the motion of the defendant Celestial  
Church of Christ, Inc., which was, in effect, pursuant to CPLR 5015(a)(3) to vacate a judgment of  
the same court entered October 23, 2006, in favor of the plaintiff and against it in the principal sum  
of \$250,000.

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

Contrary to the plaintiff's contention, the Supreme Court appropriately considered the  
written terms and overall purpose of the parties' stipulation of settlement, the document as a whole,  
and the intent and reasonable expectations of the parties in entering into it (*see generally Kass v Kass*,  
91 NY2d 554, 566; *W.W.W. Assoc. v Giancontieri*, 77 NY2d 157, 162; *Sutton v East Riv. Sav. Bank*,  
55 NY2d 550, 555; *Petracca v Petracca*, 302 AD2d 576, 577) in properly determining that the failure  
of the defendant Celestial Church of Christ, Inc. (hereinafter the church), to apply for a mortgage did

October 7, 2008

Page 1.

LOPEZ v CELESTIAL CHURCH OF CHRIST, INC.

not entitle him to demand the immediate payment of monthly installments under the stipulation, or to enter judgment against the church when such immediate payment was not forthcoming.

The plaintiff's remaining contentions are without merit.

SKELOS, J.P., COVELLO, BALKIN and DICKERSON, 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