

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

D20780
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_____AD3d_____

Submitted - September 26, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. SPOLZINO
ANITA R. FLORIO
JOHN M. LEVENTHAL, JJ.

2008-04367

DECISION & ORDER

Bowery Boy Realty, Inc., appellant,
v H.S.N. Realty Corp., respondent.

(Index No. 15646/05)

Caruso & Dillon, P.C., Mamaroneck, N.Y. (John M. Dillon of counsel), for appellant.

Friedman Kaplan Seiler & Adelman LLP, New York, N.Y. (Bruce S. Kaplan of counsel), for respondent (no brief filed).

In an action for specific performance of a contract for the sale of real property, the plaintiff appeals, as limited by its brief, from so much of an order of the Supreme Court, Kings County (Schmidt, J.), dated May 1, 2008, as denied that branch of its motion pursuant to CPLR 6513 which was to extend the notice of pendency filed against the subject premises for a period commencing July 23, 2008, and ending three years from its original date of expiration.

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

In the companion case decided herewith, we directed cancellation of the subject notice of pendency (*see Bowery Boy Realty, Inc. v H.S.N. Realty Corp.*, _____AD3d_____ [Appellate Division Docket No. 2008-01310, decided herewith]). Accordingly, the plaintiff's contentions herein have been rendered academic and the appeal must be dismissed.

RIVERA, J.P., SPOLZINO, FLORIO and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 21, 2008

BOWERY BOY REALTY, INC. v H.S.N. REALTY CORP.