

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

D21379
X/hu

_____AD3d_____

Submitted - November 3, 2008

DAVID S. RITTER, J.P.
ANITA R. FLORIO
HOWARD MILLER
MARK C. DILLON, JJ.

2007-06117

DECISION & ORDER

S.P.Q.R. Co., Inc., et al., appellants, v United Rockland
Stairs, Inc., respondent, et al., defendants.

(Index No. 5034/06)

Feerick Lynch MacCartney PLLC, Nyack, N.Y. (Phyllis A. Ingram of counsel), for
appellants.

Kantrowitz, Goldhamer & Graifman, P.C., Chestnut Ridge, N.Y. (Reginald H.
Rutishauser of counsel), for respondent.

In an action, inter alia, to permanently enjoin the defendant United Rockland Stairs, Inc., from trespassing on a certain disputed parcel of real property and to compel that defendant to remove a fence from that property, the plaintiffs appeal, as limited by their brief, from so much of an order of the Supreme Court, Rockland County (Weiner, J.), dated May 21, 2007, as granted the motion of the defendant United Rockland Stairs, Inc., for a preliminary injunction.

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

Contrary to the plaintiffs' contention, the Supreme Court did not err in granting the motion of the defendant United Rockland Stairs, Inc., for a preliminary injunction (*see* CPLR 6301, 6312[c]; *Doe v Axelrod*, 73 NY2d 748; *Matter of Advanced Digital Sec. Solutions, Inc. v Samsung Techwin Co., Ltd.*, 53 AD3d 612, 613; *Ruiz v Meloney*, 26 AD3d 485, 486). While it is true the plaintiffs showed the existence of at least a factual question as to the true ownership of the disputed parcel, that was not, under the circumstances of this case, a sufficient reason to deny the motion for a preliminary injunction, thereby preserving the status quo (*see Kelly v Garuda*, 36 AD3d 593, 596; *Stockley v Gorelik*, 24 AD3d 535; *Ying Fung Moy v Hohi Umeki*, 10 AD3d 604).

December 9, 2008

Page 1.

S.P.Q.R. CO., INC. v UNITED ROCKLAND STAIRS, INC.

The plaintiffs' remaining contentions are without merit.

RITTER, J.P., FLORIO, MILLER and DILLON, 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