

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

D21467  
O/kmg

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

Argued - November 17, 2008

STEVEN W. FISHER, J.P.  
DANIEL D. ANGIOLILLO  
THOMAS A. DICKERSON  
ARIEL E. BELEN, JJ.

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2007-03630

DECISION & ORDER

Esther Twersky, respondent-appellant,  
v Maryann Kazaks, etc., appellant-respondent.

(Index No. 17964/02)

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Robert B. Taylor, New Rochelle, N.Y., for appellant-respondent.

Richard A. Klass, Brooklyn, N.Y., for respondent-appellant.

In an action, inter alia, for specific performance of an option agreement for the purchase of real property, the defendant appeals, as limited by her brief, from stated portions of a judgment of the Supreme Court, Kings County (Knipel, J.), dated March 1, 2007, and the plaintiff cross-appeals, as limited by her brief, from so much of the same judgment as, after a nonjury trial, is in favor of the defendant and against her dismissing the first cause of action.

ORDERED that the appeal is dismissed, without costs or disbursements; and it is further,

ORDERED that the judgment is affirmed insofar as cross-appealed from, without costs or disbursements.

The appeal by the defendant is dismissed because she is not aggrieved by the judgment, which granted her complete relief by dismissing the only two causes of action asserted in the complaint (*see* CPLR 5511; *Parochial Bus Sys. v Board of Educ. Of City of N.Y.*, 60 NY2d 539, 544-545; *Roth v Michelson*, 55 NY2d 278, 281; *Rorie v Woodmere Academy*, 52 NY2d 200, 204; *Cherry v Koch*, 126 AD2d 346, 348).

December 16, 2008

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Contrary to the plaintiff's contention, under the circumstances of this case, the Supreme Court properly declined to direct partial specific performance of the subject option agreement (*see SJSJ Southold Realty, LLC v Fraser*, 33 AD3d 784; *cf. Bee Jay Indus. Corp. v Fina*, 98 AD2d 738, *affd* 62 NY2d 851).

FISHER, J.P., ANGIOLILLO, DICKERSON and BELEN, 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