

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

D21707
G/kmg

_____AD3d_____

Argued - November 24, 2008

REINALDO E. RIVERA, J.P.
DANIEL D. ANGIOLILLO
RANDALL T. ENG
ARIEL E. BELEN, JJ.

2007-10813

Mazur Brothers, Inc., appellant, v State
of New York, respondent.
(Claim No. 1)

Mazur Brothers Realty, LLC, appellant, v
State of New York, respondent.
(Claim No. 2)

DECISION & ORDER

Mazur Brothers Realty, LLC, appellant, v
State of New York, respondent.
(Claim No. 3)

Mazur Brothers, Inc., appellant, v
State of New York, respondent.
(Claim No. 4)

(Claim Nos. 112658, 112659, 112660, 112661)

Goldstein, Goldstein, Rikon & Gottlieb, P.C., New York, N.Y. (Michael Rikon of
counsel), for appellants.

Andrew M. Cuomo, Attorney General, Albany, N.Y. (Peter H. Schiff and Michael S.
Buskus of counsel), for respondent.

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In four related claims, inter alia, to recover damages for the taking of real property without just compensation, the claimants appeal, as limited by their brief, from so much of an order of the Court of Claims (Scuccimarra, J.), dated August 28, 2007, as granted the defendant's motion for leave to reargue that branch of its prior motion which was pursuant to CPLR 3211(a)(7), in effect, to dismiss that portion of Claim No. 112660 which was to recover damages for the taking of real property without just compensation, which had been determined in an order dated May 15, 2007, and, upon reargument, granted that branch of the motion.

ORDERED that the appeal by the claimant Mazur Brothers, Inc., is dismissed, as it is not aggrieved by the portion of the order appealed from (*see* CPLR 5511); and it is further,

ORDERED that the order is affirmed insofar as appealed from by the claimant Mazur Brothers Realty, LLC, with costs.

Under all the circumstances presented, the Court of Claims properly granted the defendant's motion for leave to reargue and, upon reargument, properly granted that branch of the defendant's prior motion which was pursuant to CPLR 3211(a)(7) to dismiss that portion of Claim No. 1122660 which was to recover damages for the taking of real property, allegedly without just compensation.

RIVERA, J.P., ANGIOLILLO, ENG and BELEN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court