

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

D21853  
O/prt

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

Submitted - December 9, 2008

PETER B. SKELOS, J.P.  
STEVEN W. FISHER  
HOWARD MILLER  
EDWARD D. CARNI, JJ.

---

2008-02427

DECISION & ORDER

Lucy Cooke, et al., appellants, v  
Hamlet Silijkovic, defendant,  
Aurel Rosu, a/k/a Rosu Aurel,  
respondent.

(Index No. 15108/07)

---

Borchert, Genovesi, LaSpina & Landicino, P.C., Whitestone, N.Y. (Helmut Borchert and Robert Frommer of counsel), for appellants.

Risi & Associates, Astoria, N.Y. (Peter Lagonikos of counsel), for respondent.

In an action, inter alia, pursuant to RPAPL article 15 to determine title to real property, the plaintiffs appeal, as limited by their brief, from so much of an order of the Supreme Court, Queens County (Flaherty, J.), dated February 4, 2008, as denied, without prejudice to renew, those branches of their motion which were to dismiss the affirmative defenses of lack of privity and lack of consideration asserted in the answer of the defendant Aurel Rosu, a/k/a Rosu Aurel.

ORDERED that the order is reversed insofar as appealed from, on the law, with costs, and those branches of the motion which were to dismiss the affirmative defenses of lack of privity and lack of consideration asserted in the answer of the defendant Aurel Rosu, a/k/a Rosu Aurel, are granted.

Since lack of privity and lack of consideration do not constitute cognizable defenses to the causes of action asserted against the defendant Aurel Rosu, a/k/a Rosu Aurel, the Supreme

January 20, 2009

Page 1.

COOKE v SILIJKOVIC

Court erred in denying those branches of the plaintiffs' motion which were to dismiss those affirmative defenses.

SKELOS, J.P., FISHER, MILLER and CARNI, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer  
Clerk of the Court