

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

D22605
O/kmg

_____AD3d_____

Argued - February 13, 2009

ROBERT A. SPOLZINO, J.P.
MARK C. DILLON
ANITA R. FLORIO
DANIEL D. ANGIOLILLO, JJ.

2008-03973

DECISION & ORDER

Friend Development Group, LLC, appellant,
v Estate of Louise Y. Rood, et al., respondents.

(Index No. 1147/08)

Vergilis Stenger Roberts & Davis, LLP, Wappingers Falls, N.Y. (Kenneth M. Stenger of counsel), for appellant.

McCabe & Mack, LLP, Poughkeepsie, N.Y. (Richard R. DuValle of counsel), for respondents.

In an action, inter alia, for specific performance of a contract for the sale of real property, the plaintiff appeals from an order of the Supreme Court, Dutchess County (Dolan, J.), dated April 22, 2008, which granted the defendants' motion for summary judgment dismissing the complaint and denied its cross motion for summary judgment.

ORDERED that the order is affirmed, with costs.

Contrary to the plaintiff's contention, the defendants demonstrated their prima facie entitlement to summary judgment dismissing the complaint (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324) by establishing that a letter from the plaintiff's attorney dated January 14, 2008, constituted a cancellation of the contract for the sale of the subject property (*see Gold v First Stop Tire Shop, Inc.*, 50 AD3d 738; *Jericho Group Ltd. v Midtown Dev., LP*, 32 AD3d 294, 298; *Degree Sec. Sys., Inc. v F.A.B. Land Corp.*, 17 AD3d 402, 403). In opposition, the plaintiff failed to raise a triable issue of fact.

SPOLZINO, J.P., DILLON, FLORIO and ANGIOLILLO, JJ., concur.

ENTER:


James Edward Pelzer

March 31, 2009

FRIEND DEVELOPMENT GROUP, LLC v ESTATE OF LOUISE Y. ROOD

Clerk of the Court

March 31, 2009

FRIEND DEVELOPMENT GROUP, LLC v ESTATE OF LOUISE Y. ROOD