

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

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Argued - February 27, 2009

WILLIAM F. MASTRO, J.P.  
THOMAS A. DICKERSON  
ARIEL E. BELEN  
CHERYL E. CHAMBERS, JJ.

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2008-06283

DECISION & ORDER

Al's Atlantic, Inc., respondent v Shatma, LLC,  
et al., appellants.

(Index No. 11331/07)

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Edward S. Kanbar, New York, N.Y., for appellants.

Avery J. Gross, Staten Island, N.Y., for respondent.

In an action, inter alia, to quiet title to real property, the defendants appeal, as limited by their brief, from so much of an order of the Supreme Court, Kings County (Knipel, J.), dated June 19, 2008, as denied their cross motion for summary judgment dismissing the complaint, and to vacate the notice of pendency on the property.

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

The defendant failed to establish its prima facie entitlement to judgment as a matter of law (*see Zuckerman v City of New York*, 49 NY2d 557, 562). Since the action deals directly with title to real property, there was no basis to vacate a notice of pendency (*see CPLR 6501; cf. 5303 Realty Corp. v O&Y Equity Corp.*, 64 NY2d 313).

MASTRO, J.P., DICKERSON, BELEN and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

April 21, 2009

AL'S ATLANTIC, INC. v SHATMA, LLC