

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

D22994
O/kmg

_____AD3d_____

Submitted - March 20, 2009

WILLIAM F. MASTRO, J.P.
REINALDO E. RIVERA
MARK C. DILLON
THOMAS A. DICKERSON, JJ.

2007-08333

DECISION & ORDER

In the Matter of Huntington Hebrew Congregation
of Huntington, petitioner-respondent, v Melvyn
Tanenbaum, appellant, Split Rock Developers,
Inc., respondent-respondent, et al., respondent.

(Index No. 14305-07)

Melvyn Tanenbaum, Centerport, N.Y., appellant pro se.

Mitchell L. Pashkin, Huntington, N.Y., for petitioner-respondent.

Herrick Feinstein, LLP, New York, N.Y. (Arthur G. Jakoby and M. Darren Traub of
counsel), for respondent-respondent.

In a proceeding pursuant to Not-For-Profit Corporation Law § 511 for leave to sell
certain real property, the appeal is from an order of the Supreme Court, Suffolk County (Whelan, J.),
dated August 7, 2007, which, inter alia, granted the petition and authorized the sale.

ORDERED that the appeal is dismissed as academic, without costs or disbursements.

Since the property which is the subject of this proceeding has been sold to a bona fide
purchaser for value during the pendency of this appeal, and since the appellant failed to obtain a stay
pursuant to CPLR 5519 to prevent the property from being sold, the relief sought by the appellant
is no longer available and the rights of the parties will not be directly affected by the resolution of this
appeal (*see Matter of Hearst Corp. v Clyne*, 50 NY2d 707). Accordingly, this appeal has been
rendered academic (*see 405 44th St. Realty Co. v 168 Fortune Realty, Inc.*, 14 AD3d 481; *Matter*

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MATTER OF HUNTINGTON HEBREW CONGREGATION
OF HUNTINGTON v TANENBAUM

of Congregation Bnei Yoel v Monroe-Woodbury Cent. School Dist., 258 AD2d 582; *Matter of Vetri*, 208 AD2d 755).

The appellant's remaining contention is not properly before this Court.

MASTRO, J.P., RIVERA, DILLON and DICKERSON, JJ., concur.

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DECISION & ORDER ON MOTION

In the Matter of Huntington Hebrew Congregation
of Huntington, petitioner-respondent, v Melvyn
Tanenbaum, appellant, Split Rock Developers,
Inc., respondent-respondent, et al., respondent.

(Index No. 14305-07)

Joint motion by the petitioner-respondent and the respondent-respondent, inter alia, to dismiss the appeal on the ground that it has been rendered academic. By decision and order on motion of this Court dated August 26, 2008, the motion was held in abeyance and was referred to the Justices hearing the appeal for determination upon the argument or submission thereof.

Upon the papers filed in support of the motion, the papers filed in opposition thereto, and upon the submission of the appeal, it is,

ORDERED that the motion is denied as academic in light of our determination of the appeal (*see Matter of Huntington Hebrew Congregation of Huntington v Tanenbaum*, _____ AD3d _____ [decided herewith]).

MASTRO, J.P., RIVERA, DILLON and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

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