

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

D23079
Y/prt

_____AD3d_____

Submitted - March 19, 2009

A. GAIL PRUDENTI, P.J.
FRED T. SANTUCCI
ANITA R. FLORIO
ARIEL E. BELEN, JJ.

2008-07562

DECISION & ORDER

Premier Real Estate Co., LLC, appellant,
v Angela Sherwood, respondent.

(Index No. 46161/07)

Steve C. Okenwa, Brooklyn, N.Y., for appellant.

In an action to recover on a promissory note, the plaintiff appeals from an order of the Supreme Court, Kings County (Bunyan, J.), dated July 23, 2008, which denied its cross motion for summary judgment, without prejudice to renewal upon completion of discovery.

ORDERED that the order is affirmed, without costs or disbursements.

The Supreme Court did not err in denying the plaintiff's cross motion for summary judgment without prejudice to renewal after the completion of discovery. While it is not disputed that the plaintiff made out a prima facie case, it is also clear that there was no reasonable opportunity for discovery in this action, since this motion was made almost immediately after joinder of issue and the defendant raised issues warranting further discovery (*see Aurora Loan Serv., LLC v LaMattina & Assoc. Inc.*, 59 AD3d 578; *Gera v All Pro Athletics, Inc.*, 57 AD3d 726; *cf. Trombetta v Cathone*, 59 AD3d 526).

PRUDENTI, P.J., SANTUCCI, FLORIO and BELEN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

May 19, 2009

PREMIER REAL ESTATE CO., LLC v SHERWOOD