

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

D23212  
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Argued - April 13, 2009

PETER B. SKELOS, J.P.  
STEVEN W. FISHER  
JOHN M. LEVENTHAL  
PLUMMER E. LOTT, JJ.

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2008-01646

DECISION & ORDER

In the Matter of Kese Industries, et al., petitioners-respondents, v Roslyn Torah Foundation, et al., appellants, et al., respondents.

(Index No. 10610/07)

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Michael L. Soshnick, Mineola, N.Y. (Joshua Levy of counsel), for appellants Roslyn Torah Foundation and Siat Foundation.

Kenneth Cooperstein, Centerport, N.Y., for appellant Thomas Gillen.

Shaw, Licitra, Gulotta, Esernio & Henry, P.C., Garden City, N.Y. (John Henry Hall of counsel), for petitioners-respondents.

In a hybrid action, inter alia, for a judgment declaring that a tax deed dated April 23, 2007, issued by Steven D. Conkling, the Treasurer of the County of Nassau, to Thomas Gillen and Maureen Gillen, as trustees of the Gillen Living Trust, d/b/a Jumbo Investments, is void, and proceeding pursuant to CPLR article 78, among other things, to review a determination of Steven D. Conkling to issue the tax deed, Roslyn Torah Foundation and the Siat Foundation appeal, and Thomas Gillen, as trustee of the Gillen Living Trust, d/b/a Jumbo Investments, separately appeals, as limited by their briefs, from stated portions of an order and judgment (one paper) of the Supreme Court, Nassau County (LaMarca, J.), entered January 18, 2008, which, upon a decision of the same court dated December 17, 2007, among other things, declared that the tax deed is void, and permitted the petitioners to redeem the subject tax liens.

ORDERED that the order and judgment is affirmed insofar as appealed from, with one bill of costs payable by the appellants appearing separately and filing separate briefs.

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MATTER OF KESE INDUSTRIES v ROSLYN TORAH FOUNDATION

The Supreme Court properly declared that the tax deed dated April 23, 2007, is void. Thomas Gillen, as trustee of the Gillen Living Trust, d/b/a Jumbo Investments, failed to serve the law firm Meyer, Suozzi, English & Klein, P.C., the attorneys for the mortgagee Kese Industries, with a copy of the notice to redeem. Service of the notice to redeem was required by Nassau County Administrative Code § 5-51.0(a), as the law firm was a legal representative of a party entitled to notice (*see Matter of Hua Nan Commercial Bank v Albicocco*, 270 AD2d 265, 265).

The appellants' remaining contentions are without merit.

SKELOS, J.P., FISHER, LEVENTHAL and LOTT, JJ., concur.

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2008-01646

DECISION & ORDER ON MOTION

In the Matter of Kese Industries, et al., petitioners-respondents, v Roslyn Torah Foundation, et al., appellants, et al., respondents.

(Index No. 10610/07)

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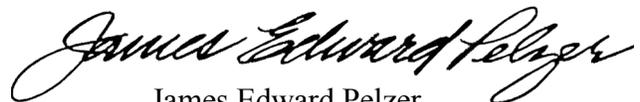
Motion by the petitioners-respondents to dismiss appeals from an order and judgment (one paper) entered January 18, 2008, on the ground that they have been rendered academic. By decision and order on motion of this Court dated February 13, 2009, the motion was held in abeyance and referred to the Justices 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 argument of the appeal, it is

ORDERED that the motion is denied.

SKELOS, J.P., FISHER, LEVENTHAL and LOTT, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

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