

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

D25832  
W/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - December 22, 2009

FRED T. SANTUCCI, J.P.  
THOMAS A. DICKERSON  
RANDALL T. ENG  
CHERYL E. CHAMBERS, JJ.

2008-10634  
2008-11422

DECISION & ORDER

Joyce A. Milowski, respondent, v Raymond W.  
Michael, et al., appellants.

(Index No. 2299/07)

---

Raymond W. Michael and Madeline de Flores-Aziz, Franklin Square, N.Y., appellants  
pro se (one brief filed).

Michael J. Collesano, New York, N.Y., for respondent.

In an action to recover rent arrears and/or use and occupancy, the defendants appeal (1), as limited by their brief, from so much of an amended order of the Supreme Court, Nassau County (Woodard, J.), dated October 14, 2008, as denied their motion for summary judgment dismissing the complaint, and (2) from a judgment of the same court (Brandveen, J.), dated November 25, 2008, which, upon a jury verdict, is in favor of the plaintiff and against them in the sum of \$26,923.75.

ORDERED that the appeal from the amended order is dismissed; and it is further,

ORDERED that the judgment is affirmed insofar as reviewed, and the appeal from the judgment is otherwise dismissed; and it is further,

ORDERED that one bill of costs is awarded to the plaintiff.

The appeal from the intermediate order must be dismissed because the right of direct

January 26, 2010

Page 1.

MILOWSKI v MICHAEL

appeal therefrom terminated with the entry of judgment in the action (*see Matter of Aho*, 39 NY2d 241). The issues raised on the appeal from the order are brought up for review and have been considered on the appeal from the judgment (*see CPLR 5501[a][1]*).

The Supreme Court properly denied the defendants' motion for summary judgment. The defendants failed to establish their prima facie entitlement to judgment as a matter of law. Since the defendants failed to satisfy their burden on the motion, we need not consider the sufficiency of the plaintiff's opposing papers (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324).

"It is the obligation of the appellant[s] to assemble a proper record on appeal, which must include any relevant transcripts of proceedings before the Supreme Court" (*Nakyeoung Seoung v Vicuna*, 38 AD3d 734, 735). Although the defendants seek review of a judgment entered upon a jury verdict, they have failed to include the full trial transcript in the record. The defendants' remaining contentions are not reviewable since the record is inadequate to enable this Court to render an informed decision on the merits (*see Robertson v United Equities, Inc.*, 61 AD3d 838; *Nakyeoung Seoung v Vicuna*, 38 AD3d at 735; *Gerhardt v New York City Tr. Auth.*, 8 AD3d 427).

SANTUCCI, J.P., DICKERSON, ENG and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court