

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

D27150
Y/prt

_____AD3d_____

Submitted - March 23, 2010

REINALDO E. RIVERA, J.P.
MARK C. DILLON
ANITA R. FLORIO
RUTH C. BALKIN, JJ.

2009-07032

DECISION & ORDER

Veronica Christian, appellant, v Joshua Samuel
Graham, respondent, et al., defendant.

(Index No. 2759/05)

Andrew J. Spinnell, New York, N.Y. (Anderi A. Popescu of counsel), for appellant.

Harvey S. Jacobs, Brooklyn, N.Y., for respondent.

In an action, inter alia, to impose a constructive trust upon certain real property, the plaintiff appeals, as limited by her brief, from so much of an order and judgment (one paper) of the Supreme Court, Kings County (Adams, J.), dated June 18, 2009, as, after a nonjury trial, granted the motion of the defendant Joshua Samuel Graham pursuant to CPLR 4401 for judgment as a matter of law, made at the close of evidence, and is in favor of that defendant and against her, dismissing the complaint.

ORDERED that the appeal is dismissed, with costs to the respondent, for failure to perfect the same in accordance with the CPLR and the Rules of this Court (*see* CPLR 5528[a]; 22 NYCRR 670.10.2[c][1]).

“An appellant who perfects an appeal by using the appendix method must file an appendix that contains all the relevant portions of the record in order to enable the court to render an informed decision on the merits of the appeal” (*Matter of Passalacqua*, 31 AD3d 648, 648 [internal quotation marks omitted]; *see Cohen v 1651 Carroll Realty Corp.*, 23 AD3d 603). Here, the appellant failed to provide this Court with an appendix containing a copy of the relevant portions of the trial transcript which is necessary to review the order and judgment appealed from (*see Ayers*

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v Ayers, 37 AD3d 629, 630; *Matter of Passalacqua*, 31 AD3d 648; *Cohen v 1651 Carroll Realty Corp.*, 23 AD3d 603). Accordingly, the appeal must be dismissed.

RIVERA, J.P., DILLON, FLORIO and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court