

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

D28125
W/kmg

_____AD3d_____

Argued - June 21, 2010

PETER B. SKELOS, J.P.
L. PRISCILLA HALL
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2009-07656

DECISION & ORDER

Iron Ox Center, respondent, v Edith Jurka, appellant.

(Index No. 14903/07)

Annette G. Hasapidis, South Salem, N.Y., for appellant.

Robin Radin, Brooklyn, N.Y., for respondent.

In an action for specific performance of a contract for the sale of real property, the defendant appeals from an order of the Supreme Court, Westchester County (Liebowitz, J.), entered July 14, 2009, which granted the plaintiff's motion for summary judgment on the complaint and denied her cross motion for summary judgment dismissing the complaint.

ORDERED that the order is modified, on the law, by deleting the provision thereof granting the plaintiff's motion for summary judgment on the complaint and substituting therefor a provision denying the motion; as so modified, the order is affirmed, without costs or disbursements.

There are triable issues of fact requiring the denial of summary judgment to both parties (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324).

SKELOS, J.P., HALL, ROMAN and SGROI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

August 24, 2010

IRON OX CENTER v JURKA