

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

D28144
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_____AD3d_____

Submitted - June 17, 2010

A. GAIL PRUDENTI, P.J.
REINALDO E. RIVERA
FRED T. SANTUCCI
HOWARD MILLER, JJ.

2009-02583

DECISION & ORDER

Doron Zanani, respondent, v Miriam Schvimmer,
et al., defendants, 238 Rodney LLC, appellant.

(Index No. 4491/08)

Goldberg & Rimberg, PLLC, New York, N.Y. (Israel Goldberg of counsel), for
appellant.

Doron Zanani, New York, N.Y., respondent pro se.

In an action, inter alia, to set aside an allegedly fraudulent conveyance, the defendant
238 Rodney, LLC, appeals, as limited by its brief, from so much of an order of the Supreme Court,
Kings County (Rothenberg, J.), dated January 5, 2009, as granted that branch of the plaintiff's motion
which was for leave to enter a default judgment against it and denied its cross motion, among other
things, to compel the plaintiff to accept its answer.

ORDERED that the order is affirmed insofar as appealed from, with costs.

A party seeking to vacate a default in appearing pursuant to CPLR 5015(a)(1) must
demonstrate both a reasonable excuse for the default and the existence of a potentially meritorious
defense (*see e.g. Wauchope v Williams*, 71 AD3d 876, 877; *HSBC Bank USA N. A. v Nuteh 72
Realty Corp.*, 70 AD3d 998). The appellant failed to meet that burden. Its remaining contentions
are without merit.

PRUDENTI, P.J., RIVERA, SANTUCCI and MILLER, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

July 13, 2010

ZANANI v SCHVIMMER