

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

D28237
H/ct

_____AD3d_____

Argued - June 7, 2010

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
THOMAS A. DICKERSON
JOHN M. LEVENTHAL, JJ.

2009-04519
2009-04521
2009-04522
2009-04523

DECISION & ORDER

Barbetta Krinsky, appellant, v Isaac Shouela, et al.,
respondents.

(Index No. 5303/04)

Richard Krinsky, Brooklyn, N.Y., for appellant.

Dennis Rapps, New York, N.Y., for respondents.

In an action, inter alia, pursuant to RPAPL article 15 to compel the determination of a claim to real property, the plaintiff appeals (1) from an order of the Supreme Court, Kings County (Held, J.), dated November 7, 2007, which, upon agreement of the parties, inter alia, directed the parties to engage in a bidding process which would determine ownership of the subject parcel, (2), as limited by her brief, from so much of an order of the same court dated March 6, 2008, as, in effect, granted that branch of her cross motion which was to direct the parties to complete the bidding and sale process within 15 days of the parties' receipt of the court-appointed appraiser's report, (3), as limited by her brief, from stated portions of an order of the same court dated December 3, 2008, which, inter alia, granted that branch of her separate motion which was, in effect, to confirm the order dated November 7, 2007, and (4), as limited by her brief, from so much of an order of the same court (Lewis, J.), dated March 27, 2009, as denied her oral application to withdraw her prior motion, inter alia, to restore the action to the trial calendar, granted that prior motion, directed the parties to execute releases with regard to the subject parcel, and directed that the parcel was to remain in the possession of the defendants.

August 24, 2010

KRINSKY v SHOUELA

Page 1.

ORDERED that the appeals are dismissed, with one bill of costs payable to the defendants.

The appeals from the orders dated November 7, 2007, March 6, 2008, and December 3, 2008, must be dismissed on the ground that the plaintiff is not aggrieved by those orders (*see* CPLR 5511).

The order dated March 27, 2009, did not determine a motion made on notice and is, therefore, not appealable as of right (*see* CPLR 5701[a][2]); *Rabinovich v Shevchenko*, 63 AD3d 1027; *Steven L. Levitt & Assoc., P.C., v Computer Handlers Corp.*, 7 AD3d 613). No motion for leave to appeal has been made and, under the circumstances, we decline to grant leave to appeal on our own motion (*see Rabinovich v Schevchenko*, 63 AD3d 1027; *Independence Constr. Corp. v AMOCO Constr. Corp.*, 33 AD3d 963).

SKELOS, J.P., SANTUCCI, DICKERSON and LEVENTHAL, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court