

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

D29323
Y/prt

_____AD3d_____

Submitted - October 25, 2010

PETER B. SKELOS, J.P.
STEVEN W. FISHER
FRED T. SANTUCCI
JOHN M. LEVENTHAL, JJ.

2009-06816

DECISION & ORDER

Pedro Picon Tapia, appellant, v Prudential Richard
Albert Realtors, et al., respondents, et al., defendants.

(Index No. 21280/06)

Sweeney, Cohn, Stahl, Spector & Frank, White Plains, N.Y. (Wayne H. Spector of
counsel), for appellant.

In an action, inter alia, to recover damages for negligent misrepresentation, the plaintiff appeals from an order of the Supreme Court, Westchester County (Colabella, J.), entered December 9, 2008, which granted the motion of the defendants Prudential Richard Albert Realtors and Lydia Delvalle for summary judgment dismissing the complaint insofar as asserted against them.

ORDERED that the order is affirmed, without costs or disbursements.

In the underlying residential real estate transaction, the defendants Prudential Richard Albert Realtors and Lydia Delvalle (hereinafter together the defendants) were the listing agents. The plaintiff, as the purchaser, was represented by a broker. Following the closing, the plaintiff commenced this action, sounding in negligent misrepresentation, fraudulent misrepresentation, and intentional infliction of emotional distress, against the defendants and his own broker.

The Supreme Court properly granted the defendants' motion for summary judgment dismissing the complaint insofar as asserted against them as they demonstrated, prima facie, inter alia, that they owed no duty to the plaintiff and made no misrepresentations to him. In opposition to the

defendants' prima facie showing, the plaintiff failed to raise a triable issue of fact (*see Zuckerman v City of New York*, 49 NY2d 557, 563).

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

ENTER:


Matthew G. Kiernan
Clerk of the Court