

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

D30368  
H/kmb

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - February 15, 2011

DANIEL D. ANGIOLILLO, J.P.  
CHERYL E. CHAMBERS  
LEONARD B. AUSTIN  
ROBERT J. MILLER, JJ.

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2010-03253

DECISION & ORDER

Charles Massimino, et al., appellants, v Target Corporation, defendant-respondent, Kimco Realty Corporation, defendant third-party plaintiff-respondent; Middle Island Maintenance Corp., third-party defendant.

(Index No. 27869/07)

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Glynn Mercep and Purcell, LLP, Stony Brook, N.Y. (A. Craig Purcell of counsel), for appellants.

Simmons Jannace, LLP, Syosset, N.Y. (Sal DeLuca of counsel), for respondent Target Corporation.

Hoey, King, Toker & Epstein, New York, N.Y. (Andrew G. Sfougatakis of counsel), for respondent Kimco Realty Corporation.

Jeffrey S. Wasserman, P.C., Mineola, N.Y., for third-party defendant.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal, as limited by their brief, from so much of an order of the Supreme Court, Suffolk County (Cohen, J.), entered March 10, 2010, as, upon reargument, adhered to the original determination in an order of the same court entered October 23, 2009, granting the separate motions of the defendants Target Corporation and Kimco Realty Corporation for summary judgment dismissing the complaint insofar as asserted against each of them.

ORDERED that the order entered March 10, 2010, is affirmed insofar as appealed

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from, with one bill of costs payable to the respondents.

Contrary to the plaintiffs' contention, upon reargument, the Supreme Court properly adhered to its original determination granting the separate motions of the defendants for summary judgment dismissing the complaint insofar as asserted against each of them (*see* CPLR 2221[d][2]; *Marchese v Skenderi*, 51 AD3d 642; *Mazzella v City of New York*, 72 AD3d 755, 756; *Ronconi v Denzel Assoc.*, 20 AD3d 559, 560; *Dowden v Long Is. R.R.*, 305 AD2d 631; *Ioele v Wal-Mart Stores*, 290 AD2d 614, 616; *Camacho v Garcia*, 273 AD2d 835, 835).

ANGIOLILLO, J.P., CHAMBERS, AUSTIN and MILLER, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court