

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

D31061  
O/kmb

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Argued - April 8, 2011

WILLIAM F. MASTRO, J.P.  
ARIEL E. BELEN  
CHERYL E. CHAMBERS  
SHERI S. ROMAN, JJ.

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2010-06700

DECISION & ORDER

Sara Brenner Delaney, et al., appellants, v Yossie Grunbaum, defendant, Advisors Mortgage Group, LLC, respondent.

(Index No. 3416/09)

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Sara Brenner Delaney, New York, N.Y., appellant pro se and for appellants Joseph Brenner and Ardeth Brenner.

DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, White Plains, N.Y. (Eric J. Mandell of counsel), for respondent.

In an action, inter alia, to recover damages for fraud and misrepresentation, the plaintiffs appeal, as limited by their brief, from so much of an order of the Supreme Court, Kings County (Kramer, J.), dated May 10, 2010, as denied that branch of their motion which was for summary judgment on the third and fourth causes of action against the defendant Advisors Mortgage Group, LLC, and, in effect, granted the cross motion of the defendant Advisors Mortgage Group, LLC, for summary judgment dismissing the complaint insofar as asserted against it.

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

Contrary to the plaintiffs' contentions, the Supreme Court properly determined that the defendant Advisors Mortgage Group, LLC (hereinafter AMG), demonstrated its prima facie entitlement to judgment as a matter of law by establishing that the preapproval letter which it provided to the defendant Yossie Grunbaum, the prospective purchaser of the plaintiffs' property, was not issued to, or for the benefit of, the plaintiffs, and was conditional in nature so as not to

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require AMG to ultimately extend credit to Grunbaum (*see generally Oko v Walsh*, 28 AD3d 529; *Eves v Bureau*, 13 AD3d 1004). The plaintiffs, who acknowledged the conditional nature of the letter, failed to raise a triable issue of fact in opposition. Accordingly, the Supreme Court correctly denied the plaintiffs' motion for summary judgment on their causes of action alleging fraud and misrepresentation against AMG and correctly, in effect, granted AMG's cross motion for summary judgment dismissing the complaint insofar as asserted against it.

The plaintiffs' remaining contentions are without merit.

MASTRO, J.P., BELEN, CHAMBERS and ROMAN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court