

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

D31185
C/prt

_____AD3d_____

Submitted - April 21, 2011

A. GAIL PRUDENTI, P.J.
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON
SHERI S. ROMAN, JJ.

2010-07481

DECISION & ORDER

Deutsche Bank National Trust Company, etc.,
respondent, v Moshe Shimon, appellant, et al.,
defendants.

(Index No. 9964/09)

Jeremy Rosenberg, New York, N.Y., for appellant.

Hogan Lovells US LLP, New York, N.Y. (Allison J. Schoenthal, Victoria McKenney,
and Jessica L. Ellsworth of counsel), for respondent.

In an action to foreclose a mortgage, the defendant Moshe Shimon appeals, as limited by his brief, from so much of an order of the Supreme Court, Rockland County (Kelly, J.), entered April 26, 2010, as granted those branches of the plaintiff's motion which were for summary judgment on the complaint insofar as asserted against him and to appoint a referee to compute the amount due to the plaintiff.

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

The appellant's contention that the branch of the plaintiff's motion which was for summary judgment on the complaint insofar as asserted against him should have been denied as premature (*see* CPLR 3212[f]) is raised for the first time on appeal and, therefore, is not properly before us (*see Aglow Studios, Inc. v Karlsson*, ___ AD3d ___, 2011 NY Slip Op 03007 [2d Dept 2011]; *Burgos v Rateb*, 64 AD3d 530, 531).

May 10, 2011

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The appellant's remaining contention is without merit.

PRUDENTI, P.J., ANGIOLILLO, DICKERSON and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court