

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

D31928
G/ct

_____AD3d_____

Submitted - June 9, 2011

A. GAIL PRUDENTI, P.J.
RANDALL T. ENG
L. PRISCILLA HALL
PLUMMER E. LOTT, JJ.

2011-01731

DECISION & ORDER

Morgan Barrington Financial Services, Inc., et al.,
appellants, v Fron Nahzi, formerly known as Fron
Nazi, respondent, et al., defendant.

(Index No. 19276/10)

Zane and Rudofsky, New York, N.Y. (Edward S. Rudofsky and Patricia N. Reich of
counsel), for appellants.

Roy A. McKenzie, New York, N.Y., for respondent.

In an action, inter alia, to impose a constructive trust on certain real property, the
plaintiffs appeal, as limited by their brief, from so much of an order of the Supreme Court, Queens
County (Satterfield, J.), entered January 24, 2011, as granted that branch of the motion of the
defendant Fron Nahzi, formerly known as Fron Nazi, which was pursuant to CPLR 3211(a)(4) to
dismiss the complaint.

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

Pursuant to CPLR 3211(a)(4), a court has broad discretion in determining whether
an action should be dismissed on the ground that there is another action pending (*see Whitney v
Whitney*, 57 NY2d 731, 732; *Kent Dev. Co. v Liccione*, 37 NY2d 899, 901; *Montalvo v Air Dock
Sys.*, 37 AD3d 567; *Liebert v TIAA-CREF*, 34 AD3d 756). Under the circumstances of this case, the

June 28, 2011

Page 1.

MORGAN BARRINGTON FINANCIAL SERVICES, INC.
v NAHZI, formerly known as NAZI

Supreme Court providently exercised its discretion in granting that branch of the motion of the defendant Fron Nahzi, formerly known as Fron Nazi, which was pursuant to CPLR 3211(a)(4) to dismiss the complaint (*see Simonetti v Larson*, 44 AD3d 1028, 1029; *Weinstock v Cleary, Gottlieb, Steen & Hamilton*, 224 AD2d 611).

PRUDENTI, P.J., ENG, HALL and LOTT, JJ., concur.

ENTER: 
Matthew G. Kiernan
Clerk of the Court