

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

D33189  
Y/kmb

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Argued - November 15, 2011

REINALDO E. RIVERA, J.P.  
JOHN M. LEVENTHAL  
SHERI S. ROMAN  
SANDRA L. SGROI, JJ.

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2010-11858  
2011-00768

DECISION & ORDER

Nancy Drasser, et al., appellants, v STP Associates,  
LLC, respondent.

(Index No. 15465/09)

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Frederick C. Kelly, Monroe, N.Y., for appellants.

Westerman Ball Ederer Miller & Sharfstein, LLP, Uniondale, N.Y. (Jeffrey A. Miller  
of counsel), for respondent.

In an action, inter alia, for a permanent injunction, the plaintiffs appeal from (1) an order of the Supreme Court, Nassau County (Winslow, J.), entered October 26, 2010, which granted that branch of the defendant's cross motion which was to transfer the action to a different Justice of the Supreme Court, and (2) an order of the same court (Phelan, J.), entered December 14, 2010, which, inter alia, denied those branches of their motion which were for summary judgment on the first, second, third, and fourth causes of action and granted that branch of the defendant's cross motion which was for summary judgment dismissing the complaint.

ORDERED that the orders are affirmed, with one bill of costs.

The Supreme Court did not improvidently exercise its discretion in transferring the instant action to the Justice who presided over a prior action involving many of the same parties for the same or similar relief (*see Kramer, Levin, Nessen, Kamin & Frankel v International 800 Telecom Corp.*, 190 AD2d 538, 539; *Cosmos Forms v Furst*, 172 AD2d 403).

The defendant established its prima facie entitlement to judgment as a matter of law dismissing the complaint. It demonstrated that the notices it sent to the plaintiffs in September 2009

December 13, 2011

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pursuant to Real Property Law § 233(b)(6)(i) complied with the requirements of that statute. In opposition, the plaintiffs failed to raise a triable issue of fact (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324). Accordingly, the Supreme Court properly granted the defendant's cross motion for summary judgment dismissing the complaint.

The plaintiffs' remaining contentions are without merit.

RIVERA, J.P., LEVENTHAL, ROMAN and SGROI, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court