

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

D34176
C/nl/kmb

_____AD3d_____

Argued - February 7, 2012

MARK C. DILLON, J.P.
ANITA R. FLORIO
LEONARD B. AUSTIN
SHERI S. ROMAN, JJ.

2009-03687

DECISION & ORDER

Norma Vigo, plaintiff-respondent, v 501 Second Street Holding Corp., appellant, Gihon, LLC, defendant-respondent, et al., defendants (and a third-party action).

(Index No. 38083/06)

Rachel Nash, New York, N.Y., for appellant.

Herrick, Feinstein LLP, New York, N.Y. (Darlene Fairman of counsel), for plaintiff-respondent.

Goldman & Greenbaum, P.C., New York, N.Y. (Martin W. Goldman and Anthony Prisco of counsel), for defendant-respondent.

In an action to foreclose a mortgage, the defendant 501 Second Street Holding Corp. appeals from an order of the Supreme Court, Kings County (Knipel, J.), dated March 2, 2009, which denied its motion for recusal.

ORDERED that the order is affirmed, with costs.

“Absent a legal disqualification under Judiciary Law § 14, a court is the sole arbiter of the need for recusal, and its decision is a matter of discretion and personal conscience” (*Matter of O’Donnell v Goldenberg*, 68 AD3d 1000, 1000; *see People v Moreno*, 70 NY2d 403, 405-406; *Matter of Imre v Johnson*, 54 AD3d 427). Here, the appellant failed to set forth any proof of bias or prejudice in support of its motion for recusal (*see Gihon, LLC v 501 Second St., LLC*, 77 AD3d 709; *Daulat v Helms Bros., Inc.*, 57 AD3d 938; *Matter of Alizia McK.*, 25 AD3d 429).

November 21, 2012

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The appellant's remaining contentions are either not properly before this Court or without merit.

DILLON, J.P., FLORIO, AUSTIN and ROMAN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court