

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

D34278
O/kmb

_____AD3d_____

Argued - January 30, 2012

DANIEL D. ANGIOLILLO, J.P.
JOHN M. LEVENTHAL
LEONARD B. AUSTIN
SHERI S. ROMAN, JJ.

2010-08595

DECISION & ORDER

Vernon 44-02, LLC, plaintiff-respondent, v Vernon Realty Holding, LLC, et al., defendants, Blue Water Environmental, Inc., defendant-respondent; Baruch Singer, et al., intervenors-appellants.

(Index No. 1033/09)

Sukenik, Segal & Graff, P.C., New York, N.Y. (David C. Segal and Sweeney, Gallo, Reich & Bolz, LLP [Michael Reich of counsel]), for intervenors-appellants.

Rosenberg & Estis, P.C., New York, N.Y. (Warren A. Estis, Jeffrey Turkel, and Lori Anker Nott of counsel), for plaintiff-respondent.

In an action to foreclose a mortgage, the intervenors, Baruch Singer and River East City LLC, appeal, as limited by their notice of appeal and brief, from so much of an order of the Supreme Court, Queens County (Kitzes, J.), dated June 30, 2010, as, upon granting that branch of their motion pursuant to CPLR 1012 and 1013 which was for leave to intervene in the action in their capacity as judgment creditors in a related action, denied that branch of their motion pursuant to CPLR 1012 and 1013 which was for leave to intervene in the action in their capacity as vendee lienors and, thereupon, precluded them from serving an answer including any affirmative defense, counterclaim, or cross claim based upon their alleged status as contract vendees.

ORDERED that the order is affirmed insofar as appealed from, with costs to the plaintiff-respondent.

March 27, 2012

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For the reasons stated in *Global Team Vernon, LLC v Vernon Realty Holding, LLC* (_____AD3d_____ [decided herewith]), the Supreme Court providently exercised its discretion in denying that branch of the appellants' motion pursuant to CPLR 1012 and 1013 which was for leave to intervene in the action in their capacity as vendee lienors, thus precluding them from asserting any affirmative defense, counterclaim, or cross claim based upon their alleged status as contract vendees.

ANGIOLILLO, J.P., LEVENTHAL, AUSTIN and ROMAN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court