

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

D35379
G/kmb

_____AD3d_____

Argued - April 27, 2012

REINALDO E. RIVERA, J.P.
RUTH C. BALKIN
ARIEL E. BELEN
CHERYL E. CHAMBERS, JJ.

2011-06659

DECISION & ORDER

A.J.P. Auto Sales Limited, Inc., et al., respondents,
v Peter Dejana, et al., appellants.

(Index No. 2367/06)

Avrutine & Associates, PLLC, Syosset, N.Y. (Daniel L. Millman of counsel), for
appellants.

In an action pursuant to RPAPL article 20, inter alia, to determine claims to an
easement and for injunctive relief, the defendants appeal from a judgment of the Supreme Court,
Nassau County (Feinman, J.), entered June 8, 2011, which, after a nonjury trial, among other things,
is in favor of the plaintiffs and against them, enjoining the defendants from, inter alia, interfering
with the plaintiffs' use of the subject easement.

ORDERED that the judgment is affirmed, without costs or disbursements.

The plaintiffs and the defendants own neighboring parcels of real property. The
plaintiffs commenced this action pursuant to RPAPL article 20, inter alia, to determine their claims
to an alleged easement over a certain portion of the defendants' property, as described in the deed
conveying the burdened property to the defendants' predecessor-in-interest, and enjoining the
defendants from interfering with the plaintiffs' use of the easement. After a nonjury trial, the
Supreme Court, among other things, determined that the plaintiffs established the existence of an
easement and enjoined the defendants from, inter alia, interfering with the plaintiffs' use of the
subject easement.

Contrary to the defendants' contentions, the plaintiffs established at trial the existence
of an easement, as to which the defendants had notice in the defendants' recorded chain of title (*see*
Corrarino v Byrnes, 43 AD3d 421, 423; *Breakers Motel v Sunbeach Montauk Two*, 224 AD2d 473,
474). Moreover, the Supreme Court correctly concluded that its prior orders denying the plaintiffs'

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motions for preliminary injunctive relief, did not constitute the law of the case (*see J.A. Preston Corp. v Fabrication Enters.*, 68 NY2d 397, 402).

The defendants' remaining contention is without merit.

RIVERA, J.P., BALKIN, BELEN and CHAMBERS, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court