

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

D35592  
Y/kmb

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Argued - May 29, 2012

PETER B. SKELOS, J.P.  
THOMAS A. DICKERSON  
JOHN M. LEVENTHAL  
SHERI S. ROMAN, JJ.

2010-01255

DECISION & ORDER

Miklos P. Petervary, etc., respondent, v Algie Bubnis,  
et al., appellants.

(Index No. 21003/01)

Lewis Johs Avallone Aviles, LLP, Melville, N.Y. (Seth M. Weinberg of counsel), for  
appellants.

Glynn Mercep and Purcell, LLP, Stony Brook, N.Y. (A. Craig Purcell of counsel),  
for respondent.

In an action for specific performance of a contract for the sale of real property, the  
defendants appeal from a judgment of the Supreme Court, Suffolk County (Mayer, J.), entered  
December 8, 2009, which, upon a decision of the same court (Seidell, J.H.O.) dated March 4, 2009,  
made after a nonjury trial, is in favor of the plaintiff and against them, directing specific performance  
of the contract.

ORDERED that the judgment is affirmed, with costs.

“In reviewing a determination made after a nonjury trial, this Court’s power is as  
broad as that of the trial court, and it may render the judgment it finds warranted by the facts, taking  
into account that in a close case the trial court had the advantage of seeing and hearing the witnesses”  
(*BRK Props., Inc. v Wagner Ziv Plumbing & Heating Corp.*, 89 AD3d 883, 884; *see Northern  
Westchester Professional Park Assoc. v Town of Bedford*, 60 NY2d 492, 499). Here, the Supreme  
Court’s determination that the plaintiff was ready, willing, and able to perform the terms of the  
subject contract (*see Huntington Min. Holdings v Cottontail Plaza, Inc.*, 60 NY2d 997, 998; *Weiss  
v Feldbrand*, 50 AD3d 673, 674; *Djukanovic v D’Amico*, 40 AD3d 576, 576-577; *Internet Homes,  
Inc. v Vitulli*, 8 AD3d 438, 439; *Stawski v Epstein*, 67 AD2d 681, 682), was warranted by the facts.

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Thus, we decline to disturb the Supreme Court's determination.

The defendants' remaining contention is without merit.

SKELOS, J.P., DICKERSON, LEVENTHAL and ROMAN, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court