

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

D36023
T/kmb

_____AD3d_____

Argued - May 24, 2012

MARK C. DILLON, J.P.
RUTH C. BALKIN
ARIEL E. BELEN
CHERYL E. CHAMBERS, JJ.

2011-07222

DECISION & ORDER

John Doe, respondent, v Sutlingar Realty Corp.,
appellant.

(Index No. 25324/09)

Russo & Toner, LLP, New York, N.Y. (Christopher G. Keane of counsel), for
appellant.

Julio J. Marino (Pollack, Pollack, Isaac & De Cicco, New York, N.Y. [Brian J.
Isaac], of counsel), for respondent.

In an action to recover damages for personal injuries, the defendant appeals from an
order of the Supreme Court, Kings County (Kramer, J.), dated May 26, 2011, which denied its
motion for summary judgment dismissing the complaint.

ORDERED that the order is reversed, on the law, with costs, and the defendant's
motion for summary judgment dismissing the complaint is granted.

The plaintiff allegedly slipped and fell on a wet substance on a polyurethane-coated
staircase landing. He commenced this action against the defendant, the property owner, alleging that
the polyurethane-coated landing, when wet, was unusually dangerous.

A property owner has a duty to maintain his or her premises in a reasonably safe
condition (*see e.g. Basso v Miller*, 40 NY2d 233, 241). To impose liability on the defendant for the
plaintiff's fall, there must be evidence tending to show the existence of a dangerous condition (*see
Gonzalez v Natick NY Freeport Realty Corp.*, 91 AD3d 597; *Walsh v Super Value, Inc.*, 76 AD3d
371, 375).

The defendant established, prima facie, that the polyurethane-coated staircase landing did not constitute a dangerous condition by submitting, inter alia, an affidavit from a licensed mechanical engineer (*see Poelker v Swan Lake Golf Corp.*, 71 AD3d 857, 858). In opposition, the plaintiff failed to raise a triable issue of fact. Accordingly, the Supreme Court should have granted the defendant's motion for summary judgment dismissing the complaint.

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

ENTER:


Aprilanne Agostino
Clerk of the Court