

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

D36095
C/kmb

_____AD3d_____

Argued - September 7, 2012

DANIEL D. ANGIOLILLO, J.P.
ARIEL E. BELEN
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2011-06275

DECISION & ORDER

In the Matter of Cheryl Hershkowitz, deceased.
George Hershkowitz, etc., appellant; White House
Owners Corp., et al., respondents; Angela
Yakutilova, proposed petitioner/plaintiff.

(File No. 352576)

Lionel Alan Marks, New York, N.Y., for appellant and proposed petitioner/plaintiff.

Abrams Garfinkel Matgolis Bergson, LLP, New York, N.Y. (Robert J. Bergson and
Andrew W. Gefell of counsel), for respondents.

In a proceeding for the administration of a decedent's estate in which George Hershkowitz, the administrator of the estate of Cheryl Hershkowitz, commenced a hybrid proceeding, inter alia, to compel the respondents/defendants, White House Owners Corp. and the Board of Directors of White House Owners Corp., to approve a certain "short sale" contract, and action for, among other things, declaratory and injunctive relief, George Hershkowitz, the administrator of the estate of Cheryl Hershkowitz, appeals, as limited by his brief, from stated portions of an order of the Surrogate's Court, Nassau County (McCarty III, S.), dated May 5, 2011, which, inter alia, denied his motion for summary judgment on the first and second causes of action.

ORDERED that the appeal is dismissed, without costs or disbursements.

The appeal from the order dated May 5, 2011, must be dismissed because the portions of the order appealed from were superseded by an order of the same court dated September 13, 2011, made upon reargument and renewal (*see Matter of Hershkowitz*, _____AD3d_____ [Appellate

October 17, 2012

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MATTER OF HERSHKOWITZ, DECEASED

Division Docket No. 2011-09847; decided herewith]).

ANGIOLILLO, J.P., BELEN, ROMAN and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court