
This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 86 SSM 10
Carmen Pesante,
Respondent,
v.
Vertical Industrial Development
Corp., et al.,
Appellants,
et al.,
Defendant.
(and a third party action).

Submitted by Joyce G. Bigelow, for appellants.
Submitted by Parneet K. Chauhan, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed,
with costs, and the certified question answered in the
affirmative.

Defendants Vertical Industrial Development Corp.
(Vertical) and Rentar Development Corp. (Rentar) owed plaintiff a

nondelegable duty to keep the premises safe (see Rosenberg v Equitable Life Assur. Socy. of U.S., 79 NY2d 663, 668 [1992], rearg dismissed 82 NY2d 825 [1993]). Triable issues of fact exist regarding whether the security firm hired as an independent contractor by Vertical and Rentar was negligent in performing its duties and whether Vertical and Rentar could be held vicariously liable as result. Accordingly, the Appellate Division properly denied the motion for summary judgment seeking dismissal of the complaint insofar as asserted against Vertical and Rentar.

* * * * *

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Wilson concur.

Decided May 4, 2017