

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

D55328
C/htr

_____AD3d_____

Submitted - February 26, 2018

ALAN D. SCHEINKMAN, P.J.
JEFFREY A. COHEN
COLLEEN D. DUFFY
ANGELA G. IANNACCI, JJ.

2016-01247

DECISION & ORDER

Joseph McDonald, Jr., etc., et al., respondents, v Ottavio Savo, et al., appellants.

(Index No. 101760/05)

Howard M. File, Esq., P.C., Staten Island, NY, for appellants.

Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C., New York, NY (Seth R. Goldman and John S. McMahon III of counsel), for respondent Joseph McDonald, Jr.

In an action, inter alia, to recover damages for breach of contract, the defendants appeal from an amended judgment of the Supreme Court, Richmond County (Philip G. Minardo, J.), entered January 14, 2016. The amended judgment, after a nonjury trial, is in favor of the plaintiffs and against the defendants in the total sum of \$524,953.42.

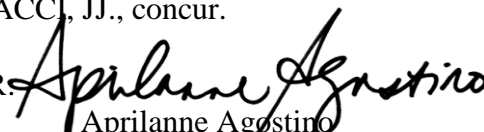
ORDERED that the amended judgment is affirmed, with costs.

The defendants' contention that this action is barred by the statute of limitations was resolved on a prior appeal in this case (*see Da Silva v Savo*, 35 AD3d 647). The issue of the amount of damages to be awarded also was resolved on a prior appeal (*see Da Silva v Savo*, 97 AD3d 525). An appellate court's resolution of an issue on a prior appeal constitutes the law of the case and is binding on the Supreme Court, as well as on the appellate court (*see Matter of Doman*, 150 AD3d 994; *Congel v Malfitano*, 141 AD3d 64, 70, *mod* ___NY3d___, 2018 NY Slip Op 02119 [2018]).

The defendants' remaining contentions are without merit or were rendered academic after trial.

SCHEINKMAN, P.J., COHEN, DUFFY and IANNACCI, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

May 9, 2018

McDONALD v SAVO