

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

D57056
T/htr

_____AD3d_____

Submitted - June 11, 2018

ALAN D. SCHEINKMAN, P.J.
RUTH C. BALKIN
SANDRA L. SGROI
HECTOR D. LASALLE, JJ.

2015-09034
2015-09035
2016-00965

DECISION & ORDER

David Jannetti, respondent, v Mary M. Whelan,
et al., appellants.

(Index No. 44564/10)

Patricia Weiss, Sag Harbor, NY, for appellants.

Michael G. Walsh, Water Mill, NY (Kelly A. Doyle of counsel), for respondent.

In an action, inter alia, for specific performance of a contract for the sale of real property, the defendants appeal from three orders of the Supreme Court, Suffolk County (Ralph T. Gazzillo, J.), dated June 18, 2015, July 23, 2015, and November 23, 2015, respectively. The order dated June 18, 2015, insofar as appealed from, granted that branch of the plaintiff's motion which was to compel the defendant Mary M. Whelan to answer questions at an examination before trial and denied that branch of the defendants' cross motion which was for a protective order with respect to that defendant. The order dated July 23, 2015, granted that branch of the plaintiff's motion which was for a temporary extension of a notice of pendency filed against the subject property pending the hearing and determination of that branch of the plaintiff's motion which was to extend the notice of pendency for a period of three years. The order dated November 23, 2015, upon the plaintiff's withdrawal of that branch of his motion which was to extend the notice of pendency for a period of three years, denied that branch of the plaintiff's motion as academic.

ORDERED that the appeals are dismissed, without costs or disbursements.

The appeal from the order dated June 18, 2015, must be dismissed, as the portion of the order appealed from is not appealable as of right (*see* CPLR 5701[a]), and leave to appeal has

October 24, 2018

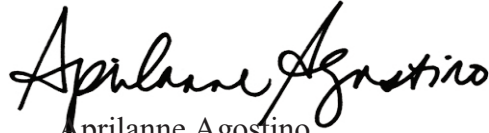
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not been granted. The appeal from the order dated July 23, 2015, must be dismissed as academic, as that order expired by its own terms upon the withdrawal of that branch of the plaintiff's motion which was to extend the notice of pendency for a period of three years. The appeal from the order dated November 23, 2015, must be dismissed, as the defendants are not aggrieved by that order (*see* CPLR 5511).

SCHEINKMAN, P.J., BALKIN, SGROI and LASALLE, JJ., concur.

ENTER:

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

Aprilanne Agostino
Clerk of the Court