

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

707

CA 20-01231

PRESENT: CENTRA, J.P., PERADOTTO, NEMOYER, CURRAN, AND DEJOSEPH, JJ.

AH WINES, INC., GREAT COLISEUM, L.L.C.,
THE GREAT COLISEUM, L.L.C., GREAT
COLISEUM, L.L.C., DOING BUSINESS AS
AH WINES, LODI CITY WINERY, LODI WINE
COMPANY, WINERY DIRECT DISTRIBUTORS AND
JEFFREY WAYNE HANSEN, PLAINTIFFS-RESPONDENTS,

V

MEMORANDUM AND ORDER

C6 CAPITAL FUNDING LLC, DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

CARTER LEDYARD & MILBURN LLP, NEW YORK CITY (JEFFREY S. BOXER OF
COUNSEL), FOR DEFENDANT-APPELLANT.

THE BASILE LAW FIRM, P.C., JERICHO (CATHERINE MCGOVERN OF COUNSEL),
FOR PLAINTIFFS-RESPONDENTS.

Appeal from an order of the Supreme Court, Ontario County (J. Scott Odorisi, J.), entered September 11, 2020. The order granted the motion of plaintiffs for a preliminary injunction and enjoined defendant from enforcing certain judgments against plaintiffs.

It is hereby ORDERED that the order so appealed from is unanimously reversed on the law without costs, the motion is denied, and the preliminary injunction is vacated.

Memorandum: Plaintiffs commenced this action seeking, *inter alia*, to vacate a judgment by confession and thereafter moved by order to show cause to enjoin defendant from enforcing that judgment. In appeal No. 1, defendant purports to appeal from a decision granting the motion. In appeal No. 2, defendant appeals from the order entered pursuant to that decision.

At the outset, we note that the appeal from the decision in appeal No. 1 must be dismissed because it was taken from a "mere decision, from which no appeal lies" (*Plastic Surgery Group of Rochester, LLC v Evangelisti*, 39 AD3d 1265, 1266 [4th Dept 2007]; see *Garcia v Town of Tonawanda*, 194 AD3d 1479, 1479-1480 [4th Dept 2021]).

With respect to the order in appeal No. 2, we agree with defendant that Supreme Court abused its discretion in granting plaintiffs' motion inasmuch as plaintiffs failed to demonstrate by clear and convincing evidence a danger of irreparable injury in the

absence of the injunction (see *Cangemi v Yeager*, 185 AD3d 1397, 1398 [4th Dept 2020]; *Eastview Mall, LLC v Grace Holmes, Inc.*, 182 AD3d 1057, 1058 [4th Dept 2020]). We conclude that there was no showing of harm to plaintiffs aside from economic loss, and “[e]conomic loss, which is compensable by money damages, does not constitute irreparable harm” (*Mangovski v DiMarco*, 175 AD3d 947, 949 [4th Dept 2019] [internal quotation marks omitted]). In light of our determination, defendant’s remaining contentions are academic.

Entered: November 12, 2021

Ann Dillon Flynn
Clerk of the Court