

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

503

CA 22-00765

PRESENT: LINDLEY, J.P., CURRAN, MONTOUR, AND OGDEN, JJ.

DAVID KAPLAN AND LUELLE KAPLAN,
PLAINTIFFS-APPELLANTS,

V

MEMORANDUM AND ORDER

MENLO REALTY INCOME PROPERTIES 28, LLC, NOW
KNOWN AS REALTY INCOME PROPERTIES 28, LLC,
REALTY INCOME CORPORATION, DEFENDANTS-APPELLANTS,
9187 GROUP, LLC, 10 ELLICOTT SQUARE COURT
CORPORATION, DEFENDANTS-RESPONDENTS,
ET AL., DEFENDANTS.
(APPEAL NO. 2.)

SEGAR & SCIORTINO PLLC, ROCHESTER (STEPHEN A. SEGAR OF COUNSEL), FOR
PLAINTIFFS-APPELLANTS.

SMITH, SOVIK, KENDRICK & SUGNET, P.C., SYRACUSE (KAREN G. FELTER OF
COUNSEL), FOR DEFENDANTS-APPELLANTS.

RICOTTA, MATTREY, CALLOCCHIA, MARKEL & CASSERT, BUFFALO (JILL L.
CASSERT OF COUNSEL), FOR DEFENDANTS-RESPONDENTS.

Appeals from an order of the Supreme Court, Monroe County (Sam L. Valleriani, J.), entered April 26, 2022. The order granted the motion of defendants 9187 Group, LLC and 10 Ellicott Square Court Corporation for summary judgment.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Same memorandum as in *Kaplan v Menlo Realty Income Props. 28, LLC* ([appeal No. 1] – AD3d – [July 28, 2023] [4th Dept 2023]).

Entered: July 28, 2023

Ann Dillon Flynn
Clerk of the Court