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

No. 200
Branic International Realty
Corp.,
 Appellant,
 v.
Phillip Pitt, &c.,
 Respondent,
"John Doe," et al.,
 Respondents.

Ronald J. Rosenberg, for appellant.
Martha A. Weithman, for respondent Pitt.
The Bronx Defenders, Inc. et al., amici curiae.

MEMORANDUM:

The order of the Appellate Division should be reversed,
without costs, the matter remitted to the Appellate Division with
directions to dismiss the proceeding solely on the ground of
mootness, and the certified question not answered as unnecessary.

The issues presented in this case are moot because

respondent voluntarily vacated the premises. The mootness exception is not applicable under the facts of this case (see e.g. Matter of Hearst Corp. v Clyne, 50 NY2d 707, 714-715 [1980]) and therefore the proceeding should be dismissed (see Matter of Park E. Corp. v Whalen, 43 NY2d 735, 736 [1977]).

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Order reversed, without costs, matter remitted to the Appellate Division, First Department, with directions to dismiss the petition solely on the ground of mootness and certified question not answered as unnecessary, in a memorandum. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Rivera concur. Judge Abdus-Salaam took no part.

Decided November 18, 2014