

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

D15135  
G/gts

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - April 12, 2007

REINALDO E. RIVERA, J.P.  
ANITA R. FLORIO  
MARK C. DILLON  
EDWARD D. CARNI, JJ.

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2006-04681

DECISION & ORDER

Alfred Sabetfard, respondent, v  
Djavaheri Realty Corp., appellant.

(Index No. 16242/02)

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Foley, Perlman & Campbell, Westbury, N.Y. (Robert M. Foley of counsel), for appellant.

Richard A. Dubi, P.C., Dix Hills, N.Y. (Michael A. Markowitz of counsel), for respondent.

In an action, inter alia, for specific performance of a contract for the sale of real property, the defendant appeals, as limited by its brief, from so much of an order of the Supreme Court, Nassau County (Robbins, J.), dated April 10, 2006, as, after a nonjury trial, awarded the plaintiffs specific performance of the contract.

ORDERED that the order is affirmed, with costs.

In reviewing a determination made after a nonjury trial, the power of the Appellate Division is as broad as that of the trial court, and this court may render the judgment it finds warranted by the facts, taking into account that in a close case the trial judge had the advantage of seeing the witnesses (*see Northern Westchester Professional Park Assoc. v Town of Bedford*, 60 NY2d 492, 499). We decline to disturb the Supreme Court's determination. The trial evidence established that the plaintiff was ready, willing, and able to perform his obligations under the contract

May 15, 2007

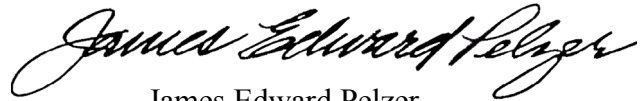
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(see *Goldstein v Held*, 37 AD3d 657; *Roland v Benson*, 30 AD3d 398), and that he did not repudiate the contract (cf. *G.G.F. Props. v Yu Mi Hong*, 284 AD2d 427).

RIVERA, J.P., FLORIO, DILLON and CARNI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style with a large initial "J".

James Edward Pelzer  
Clerk of the Court