

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

M89396
E/sl

MARK C. DILLON, J.P.
ANITA R. FLORIO
RUTH C. BALKIN
LEONARD B. AUSTIN, JJ.

2009-03124

DECISION & ORDER ON MOTION

Golden Age Mortgage Corporation,
respondent, v Argonne Enterprises, LLC,
et al., appellants, et al., defendants.

(Index No. 1822/06)

Motion by the respondent to vacate a decision and order on motion of this court dated May 4, 2009, enjoining, inter alia, the sale of certain premises and staying the appellants' eviction from that premises pending hearing and determination of an appeal from an order of the Supreme Court, Putnam County, dated February 17, 2009. Separate motion by the respondent, inter alia, to strike the record on appeal and of the appellants' brief on the grounds that they contain or refer to matter dehors the record, and to enlarge the time to serve and file a brief. Application by the respondent pursuant to 22 NYCRR 670.8(d)(2) to enlarge the time to serve and file a brief.

Upon the papers filed in support of the motions and the papers filed in opposition thereto, and upon the application, it is

ORDERED that the motion to vacate the decision and order on motion of this court dated May 4, 2009, is denied; and it is further,

ORDERED that the branch of the motion which is to strike the record on appeal is granted and on or before August 3, 2009, the appellants shall serve and file a replacement record that does not contain the following pages of the original record: pages 10 through 36, 51 through 59, 300 through 551, 742 through 950, and 958 through 1076; and it is further,

July 13, 2009

Page 1.

GOLDEN AGE MORTGAGE CORPORATION v ARGONNE ENTERPRISES, LLC

ORDERED that the branch of the motion which is to strike the appellants' brief is granted to the extent that on or before August 3, 2009, the appellants shall remove the following material from the copies of the appellants' brief filed with the Clerk of the court or serve and file a replacement brief that does not contain this material:

- (1) second and third full paragraphs on page 4 beginning with the words "On April 13, 2009," and ending with the reference "(R.1039-1041)";
- (2) first full paragraph on page 5;
- (3) Third fourth, and fifth sentences in the second full paragraph on page 5 beginning with the words "The Loan was secured" and ending with the words "referred to herein as the "Westchester Homes" (R.15-22)"; and
- (4) the last sentence of the final paragraph on page 6 beginning with the words "Thereafter," and ending with the words "their homes (R.29)."; and it is further,

ORDERED that the branch of the motion which is to enlarge the respondent's time to serve and file a brief and the application are granted, the respondent's time to serve and file a brief is enlarged until September 2, 2009, and the respondent's brief must be served and filed on or before that date; and it is further,

ORDERED that the second motion is otherwise denied.

DILLON, J.P., FLORIO, BALKIN and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court