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Romer Debbas, LLP earns positive decision for unit owner in condominium contract dispute

New York, NY Romer Debbas, LLP obtained a positive decision for condominium unit owner John Louis Bonello in a lawsuit brought by intended purchaser K&S 22W66 LLC.

This significant decision solidified a seller's rights in selling their real estate to whom they wish. Further, the decision prevents potential purchasers from attempting to improperly force a sale without a countersigned contract of sale.

The parties in the action had negotiated a contract of sale and K&S 22W66 LLC attempted to bind Bonello, arguing that the parties were "under contract" due to the seller's representative's statements and by sending a signed contract of sale in addition to the down payment, despite already being informed that the unit was being sold to a third party.

After Romer Debbas immediately rejected and returned the down payment, K&S 22W66 LLC proceeded to file a notice of pendency against the unit and commenced an action seeking breach of contract, specific performance, breach of covenant of good faith, unjust enrichment, promissory estoppel, and negligent misrepresentation. The litigation attorneys at Romer Debbas promptly filed a motion to dismiss the complaint to protect Bonello's rights in light of well-established contract caselaw.

Hon. Nancy Bannon of the Supreme Court of the State of New York, in an eight-page decision, rejected the baseless assertions that a contract was formed and held that the parties never entered into contract since the firm's transmittal email, as well as the proposed contract itself both contained clear and unequivocal language that, (i) transmittal of the contract does not constitute an offer by seller, and (ii) the contract shall not be binding or effective until properly executed and delivered by seller and purchaser. The Court further held that since the agreement was for the sale of real property, under the Statute of Frauds, it is void and unenforceable unless signed by both the parties, which had not occurred.

The complaint was dismissed in its entirety and the notice of pendency was vacated, allowing Bonello to proceed with the sale to the third party.

Bonello was represented by Emil Samman, partner and co-manager of Romer Debbas's litigation and cooperative and condominium practice groups and associate Jason Goodman.

Romer Debbas is one of New York City's largest dedicated residential real estate practices and one of the largest real estate practices in the country. The firm was most recently recognized among the city's top five real estate law firms and named the most active law firm in the residential market, credited with overseeing \$1.63 billion in sales, a total comprised of 490 residential and commercial transactions completed during the review period of July 15, 2021, through July 14, 2022. The firm's residential practice areas of specialization include the representation of acquisitions and sales, lending, and litigation as related to matters of contract and co-op/condo board disputes.

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