298 A.D.2d 253, 749 N.Y.S.2d 225, 2002 N.Y. Slip Op. 07495
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Supreme Court, Appellate Division, First Department, New York.
BROADWAY CENTRAL PROPERTY INCORPORATED, etc., Plaintiff-Appellant,
v.
682 TENANT CORPORATION, et al., Defendants-Respondents.
Oct. 22, 2002.

Sponsor of cooperative conversion brought action against cooperative corporation to recover cost of renovating first floor common area. The sponsor also alleged harassment and trespass to sign box on first floor. Corporation filed counterclaim for declaratory judgment that it owned the sign box. The Supreme Court, New York County, Leland DeGrasse, J., entered summary judgment in favor of corporation. Sponsor appealed. The Supreme Court, Appellate Division, held that: (1) corporation was not liable for renovation of first-floor areaway by sponsor, and (2) the corporation owned the sign box affixed to the outside of the building.
Affirmed.

West Headnotes

[1]

233 Landlord and Tenant
233XI Cooperative Apartments
233k356 k. Rents and Other Charges.

Renovation of first-floor areaway by sponsor of cooperative conversion was an unnecessary improvement for which cooperative corporation was not liable; neither the parties' lease nor common law required the corporation to bear the costs.

[2]

205H Implied and Constructive Contracts
205HI Nature and Grounds of Obligation
205HI(A) In General
205Hk2 Constructive or Quasi Contracts
205Hk3 k. Unjust Enrichment.

Renovation of first-floor areaway by sponsor of cooperative conversion did not unjustly enrich cooperative corporation; the sponsor and its commercial sublessees were the principal beneficiaries of the improvements.

[3]

177 Fixtures
177k13 Between Landlord and Tenant and Their Privies
177k15 k. Trade Fixtures.

Sign box affixed to the outside of cooperative apartment building on the first-floor was a "trade fixture" conveyed to the cooperative corporation along with the real property and, therefore, was not owned by the sponsor.

[4]

379 Torts
379V Other Miscellaneous Torts
379k428 k. Harassment in General; Sexual Harassment or Solicitation.
(Formerly 379k6)

New York does not recognize a civil cause of action for harassment.
**226 Mark L. Hankin, for Plaintiff-Appellant.
Robert J. Braverman, for Defendants-Respondents.

WILLIAMS, P.J., NARDELLI, ANDRIAS and MARLOW, JJ.

*253 Order and judgment (one paper), Supreme Court, New York County (Leland DeGrasse, J.), entered December 12, 2001, which, to the extent appealed from as limited by the brief, granted defendant's motion for partial summary judgment dismissing plaintiff's third cause of action to the extent that such cause sought reimbursement of $37,500 expended by plaintiff in renovating a first-floor areaway, dismissed pursuant to CPLR 3211 plaintiff's fifth through eighth causes of action, and granted defendants summary judgment on their fifth counterclaim, unanimously affirmed, with costs.
[1][2] That portion of plaintiff cooperative conversion sponsor's third cause of action which sought recovery of $37,500 for work performed by it to a common area of defendant cooperative corporation's premises was properly dismissed because neither the parties' lease nor common law requires defendant co-op to *254 bear the costs of the sponsor's unnecessary improvements (*see Patrick Pontiac Nissan, Inc. v. Jotric Land Dev.*, 269 A.D.2d 803, 703 N.Y.S.2d 630), as distinguished from ordinary maintenance and repair work. Nor was plaintiff entitled to reimbursement upon the equitable theory that defendants were unjustly enriched by the improvements to the property, particularly since plaintiff and its commercial sublessees were the principal beneficiaries of the improvements.
The IAS court properly characterized plaintiff's grounds for seeking disqualification of defendant Andrews Building Corporation as managing agent as "specious" and, indeed, in the absence of factual support for plaintiff's contention that Andrews caused the co-op to act in a biased manner, both plaintiff's direct and derivative claims were properly dismissed.
**227 [3] Also proper was the court's grant of summary judgment to defendants upon their fifth counterclaim, declaring that the co-op is the owner of a sign box affixed to the outside of the building on the first-floor level, since the sign box is a trade fixture and was conveyed to the co-op along with the real property (*see Herzog v. Marx*, 202 N.Y. 1, 94 N.E. 1063). This being the case, plaintiff did not, by alleging that defendants wrongfully converted the sign box, state a cause of action for trespass.
[4] Finally, plaintiff's seventh cause of action was properly dismissed on the ground that New York does not recognize a civil cause of action for harassment. Nor may the allegations underlying plaintiff's harassment claim survive as causes of action for abuse of process or prima facie tort.
N.Y.A.D. 1 Dept.,2002.
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