

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

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CA 21-00450

PRESENT: PERADOTTO, J.P., CARNI, LINDLEY, WINSLOW, AND BANNISTER, JJ.

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LANDCO H & L, INC., PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

377 MAIN REALTY, INC., ELENA FU, AN INDIVIDUAL,  
DEFENDANTS-APPELLANTS,  
LI LI, AN INDIVIDUAL, ET AL., DEFENDANTS.  
(APPEAL NO. 2.)

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RUPP BAASE PFALZGRAF CUNNINGHAM LLC, SARATOGA SPRINGS (PHILLIP A.  
OSWALD OF COUNSEL), FOR DEFENDANTS-APPELLANTS.

MAGAVERN MAGAVERN GRIMM LLP, BUFFALO (RICHARD A. GRIMM, III, OF  
COUNSEL), FOR PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Paul Wojtaszek, J.), entered March 9, 2021. The order, insofar as appealed from, granted the motion of plaintiff for leave to file and serve a supplemental summons and amended complaint.

It is hereby ORDERED that the order so appealed from is modified on the law by denying those parts of plaintiff's motion seeking leave to file and serve a supplemental summons and amended complaint to add Elena Fu, an individual, as a defendant and to assert a cause of action for conspiracy to commit conversion against her, and as modified the order is affirmed without costs.

Same memorandum as in *Landco H & L, Inc. v 377 Main Realty, Inc.* ([appeal No. 1] – AD3d – [Mar. 11, 2022] [4th Dept 2022]).

All concur except CARNI, J., who is not participating.

Entered: March 11, 2022

Ann Dillon Flynn  
Clerk of the Court