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INCORPORATION COMPANY

▼ 265.42 -2.5% NASDAQ 2208.63 ▼ 3.0% NIKKEI 9292.85 ▼ 2.7% STOXX 600 254.68 ▼ 2.0% 10-YRTREAS ▲ 25/32, yield 2.690% OIL \$78.02 ▼ \$2.23 GOLD \$1,197.50 ▲ \$1.30 EURO \$1.2883

PROPERTY

Condo Buyers Find Escape Clause

Court Ruling in Manhattan May Help Unhappy Owners to Break Purchase Deals

By CRAIG KARMIN

A decades-old federal law intended to reduce fraud in sales of Florida swampland was applied for the first time to help dissatisfied buyers of Manhattan condominiums.

A federal judge in Manhattan ruled on Tuesday that a company controlled by property developer Africa Israel, a unit of Israeli-based AFI Group, had to return deposits to three buyers of condos in a downtown apartment building because of inadequate disclosure in the condo's offering plan.

The judge referred to the obscure federal law known as the Interstate Land Sales Full Disclosure Act, or ILSA, as the basis for allowing the three buyers of units at 111 Fulton St. to get out of their contracts and receive refunds on their deposits.

Officials at Africa Israel didn't respond to calls seeking comment.

Judges in other states have cited ILSA when ruling on behalf of home buyers but lawyers say this decision marks the first time in New York that a developer hasn't prevailed in an ILSA case.

The ruling comes at a time when hundreds of New York condo buyers have been trying to escape contracts signed around the market's peak and whose units have since fallen significantly in value.

Lawyers have pored through piles of documents and arcane laws in an effort to find something that would enable buyers to invalidate their contracts. Starting in early 2009, many buyers have based their cases around interpretations of ILSA.

in Virginia and Florida that sided with buyers in ILSA cases had given hope to New York lawyers working with condo owners that their state would follow the same logic. "Even though it's a different jurisdiction, the ruling was persuasive and supports the purchaser," Mr. Weiner said of the Virginia case.

U.S. District Court Judge George B. Daniels ruled that the developer failed to comply with ILSA, which requires that buildings with more than 100 units provide buyers with documents that include a long list of disclosure details, from information about the condo association to zoning regulations.

If the developer fails to meet the disclosure requirements, buyers under the act have the right to tear up their contracts and receive refunds on their deposits within two years of their contract signings.

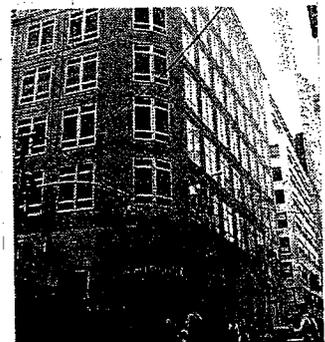
Wilentz, Goldman & Spitzer attorney who represented the buyers in the case, said developers had sometimes said that ILSA does not apply to high-rise condominiums. "This case reconfirms that it does apply," says Mr. Weiner. He added he has about nine pending ILSA cases related to New York buildings, involving more than 50 purchasers.

He is also appealing two other ILSA-related cases, one in Harlem and one in Long Island City, where the court ruled on behalf of the developers.

The 163-unit Fulton Street building began selling condos in June 2007, and three condo owners in the case signed contracts in 2007 and 2008. Their combined deposits totaled about \$300,000, and the purchase price of their apartments ranged between \$800,000 and \$1.485 million, court documents said.

Bruce H. Lederman, an attorney with D'Agostino, Levine, Landesman & Lederman who has represented developers in other ILSA cases, says that Tuesday's ruling wouldn't have a far-reaching effect. "The judge decided that the very specific language of that condo offering plan did not qualify for exemption," he says.

Africa Israel is headed by Lev Leviev, an Uzbekistan-born diamond merchant who immigrated to Israel and in recent years has bought up trophy properties in Brooklyn and Manhattan. That includes the historic Apthorp on the Upper West Side which is being converted into a high-end condo from a rental.



The Fulton Street building



Condo buyers at 111 Fulton St., above, won their case in federal court.