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(Cite as: 227 A.D.2d 208)

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Copr. (c) 2007, Secretary of State, State of New
York.

Decana, Inc., Respondent,

v.

J.D. Ross International, Inc., Appellant. (And a
Third-Party Action.)

N.Y.A.D., 1996.

Decana, Inc. v Ross Intl.

Supreme Court, Appellate Division, First
Department, New York

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(May 14, 1996)

CITE TITLE AS: Decana, Inc. v Ross Intl.

Order, Supreme Court, New York County (Herman Cahn, J.), entered October 19, 1995, which, *inter alia*, removed this action to Civil Court, New York County pursuant to CPLR 325 (d), unanimously reversed on the law, and vacated, without costs, and this matter entitled *Decana, Inc. v J.D. Ross Intl., Inc.* (index No. 114142/95) and the matter entitled *J.D. Ross Intl. v Decana, Inc.* (index No. 5449/95), pending in Civil Court of the City of New York, County of New York, Housing Part 182, are transferred to Supreme Court, New York County and consolidated with the matter entitled *J.D. Ross Intl. v Decana, Inc.* (index No. 127480/95) currently pending therein.

The equitable relief sought by the plaintiff in *Decana, Inc. v J.D. Ross Intl., Inc.* (index No. 114142/95) is not within the jurisdiction of the Civil Court (*Manhattan Parking Sys.--Serv. Corp. v Murray House Owners Corp.*, 211 AD2d 534, 535; *Doo Soon Chung v Doo Nam Kim*, 170 AD2d 232, 233) and declaratory relief sought therein is also unavailable in Civil Court (*Green v Glenbriar Co.*, 131 AD2d 363). Consolidation of these actions is appropriate given the commonality of law and facts and the lack of prejudice to either party (*Humiston v Grose*, 144 AD2d 907, 907-908).

Concur--Murphy, P. J., Wallach, Ross, Nardelli and Williams, JJ.

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