

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2009*

**ELI GREENBERG** and **CYNTHIA LEVY**,  
Appellants,

v.

**BIG CYPRESS REALTY, INC.**, and **LILACH DITCHER**,  
Appellees.

No. 4D08-304

[August 5, 2009]

PER CURIAM.

In this case, appellants sued a number of entities and individuals over a condominium purchase transaction. Two counts involved appellees as real estate brokers or agents of the seller. These counts attempted to state a claim for fraudulent concealment under *Johnson v. Davis*, 480 So. 2d 625 (Fla. 1985). The “duty of disclosure announced in *Johnson v. Davis* extends to a seller’s real estate broker.” *Syvrud v. Today Real Estate, Inc.*, 858 So. 2d 1125, 1129 (Fla. 2d DCA 2003); *Revitz v. Terrell*, 572 So. 2d 996, 998 n.5 (Fla. 3d DCA 1990). Also, *Johnson’s* application is “limited to non-commercial real property transactions.” *Solorzano v. First Union Mortg. Corp.*, 896 So. 2d 847, 849 (Fla. 4th DCA 2005). The operative complaint states the elements of a *Johnson* claim, except it does not explicitly say that this was a non-commercial transaction. We reverse the trial court’s dismissal of this case for failure to state a cause of action against appellees. On remand, appellant shall be given leave to file an amended complaint.

GROSS, C.J., DAMOORGIAN and GERBER, JJ., concur.

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Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Robert L. Andrews, Judge; L.T. Case No. 06-11831 09.

Richard F. Hussey of Richard F. Hussey, P.A., Fort Lauderdale, for appellants.

Cara C. Morris of Hoffman & Morris, P.L., Singer Island, for appellees.

***Not final until disposition of timely filed motion for rehearing.***