

3/28/18 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2016-094391

03/27/2018

COMMISSIONER MARGARET BENNY

CLERK OF THE COURT
T. Nestor-Donohue
Deputy

LAVEEN MEADOWS HOMEOWNERS
ASSOCIATION

CHAD M GALLACHER

v.

CARLOS MEJIA, et al.

JONATHAN A DESSAULES

STATE OF ARIZONA
NO ADDRESS ON RECORD
U S IMMIGRATION BONDS AND
INSURANCE SERVICES
NO ADDRESS ON RECORD
LEXINGTON NATIONAL INSURANCE
CORPORATION
NO ADDRESS ON RECORD
UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY-IN
NO ADDRESS ON RECORD

MINUTE ENTRY

The Court has received Defendant Carlos Mejia's Motion to Set Aside Default Judgment, Plaintiff Laveen Meadows' Response and Plaintiff's Reply. Oral argument has been requested

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by both parties. However, this Court is familiar with the facts of this case, has heard oral argument before in this case and all parties have had the chance to fully brief the matter. Additional oral argument would not be of further benefit.

Upon review and consideration of the above filings,

THE COURT FINDS that the judgment is not void under Ariz.R.Civ.P. Rule 60(b)(4). The Court does have subject matter and personal jurisdiction in the underlying action and was not divested of its jurisdiction because of subsequent payments made by Defendant. The Court's jurisdiction was established at the time of the filing of the lawsuit. Plaintiff had right to seek to foreclose on its entire lien once the trigger assessment requirement was met.

THE COURT FURTHER FINDS that Defendant's right to redeem the property was not violated by the foreclosure judgment. The judgment preserves and confirms Defendant's right to redeem.

THE COURT FURTHER FINDS that the default judgment of foreclosure does not foreclose on Defendant's personal property. A defendant's personal property is not sold with the subject real property at the time of the foreclosure sale of the home. The purchaser of the subject real property does not take physical possession of the property during the redemption period.

THE COURT FURTHER FINDS that the Plaintiff is entitled to accruing costs and attorney's fees *upon application to the Court*. The Plaintiff is entitled to pursue accruing costs and attorneys' fees for its collection efforts by filing an application for such amounts with the Court. The Court gives Defendant the opportunity to respond and still evaluates the requested court costs and attorneys' fees for reasonableness before granting such applications for attorneys' fees and costs.

THE COURT FURTHER FINDS that Defendant has not shown the factors needed to justify relief under Ariz.R.Civ.P. Rule 60(b)(1), (3), (4) or (6).

THEREFORE,

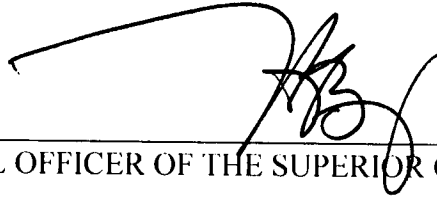
IT IS ORDERED DENYING Defendant Carlos Mejia's Motion to Set Aside Default Judgment.

IT IS FURTHER ORDERED that Plaintiff may file an application for attorneys' fees and costs and Defendant may file a response to the application.

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A handwritten signature in black ink, appearing to be 'MB', is written over a horizontal line.

JUDICIAL OFFICER OF THE SUPERIOR COURT

COMMISSIONER MARGARET BENNY

All parties representing themselves must keep the Court updated with address changes.
A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter/index.asp>