

Third District Court of Appeal
State of Florida, July Term, A.D. 2009

Opinion filed September 23, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D08-3061
Lower Tribunal No. 05-8975

Gabriel Angel De Los Reyes,
Appellant,

vs.

Countrywide Home Loans, Inc., et al.,
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Robert N. Scola,
Jr., Judge.

Greenberg Traurig and Ronald M. Rosengarten and Elliot B. Kula, for
appellant.

Xavier L. Suarez; Lapin & Leichtling, and Jeffrey Lapin; Rothmand &
Tobin, and Ellen Patterson, for appellees.

Before RAMIREZ, C.J., and GERSTEN, and ROTHENBERG, JJ.

PER CURIAM.

Gabriel Angel de los Reyes appeals the trial court's entry of summary judgment entered in favor of appellee Lindbergh's Landing Homeowner's Association who initiated a cross-claim in the underlying foreclosure suit to recover unpaid maintenance fees. We find no merit to de los Reyes' argument that disputed issues of fact precluded the entry of summary final judgment as the record before us amply supports the trial court's order entered in favor of Lindbergh's Landing.

We modify, however, the trial court's summary final judgment order related to the court's reservation of jurisdiction to rule on Lindbergh's Landing pending motion for attorney's fees incurred in prosecuting its cross-claim, and for "additional principal amounts due at the rate of \$250/month," which the court conditioned upon the "presentation of an affidavit of non-payment for succeeding months of homeowner's association assessments." We direct the trial court to strike from the order the language stating "presentation of an affidavit of non-payment for succeeding months of homeowner's association assessments."

Affirmed as modified.