

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, A.D. 2005

XPRESS TITLE, INC.,

**

Appellant,

**

vs.

** CASE NO. 3D05-1085

JASON M. WANDNER, P.A.,

**

Appellee.

** LOWER TRIBUNAL
CASE NO. 04-16419
**

Opinion filed December 28, 2005.

An Appeal from the Circuit Court for Miami-Dade County,
Leon M. Firtel, Judge.

Rodolfo Nunez; Hunter, Williams & Lynch and Christopher
Lynch, for appellant.

Jason M. Wandner, in proper person.

Before COPE, C.J., and FLETCHER and CORTIÑAS, JJ.

PER CURIAM.

Xpress Title, Inc. appeals from the trial court's order
denying its motion to vacate a default final judgment in favor
of Jason M. Wandner, P.A. We affirm.

Wandner sued Xpress Title and Nicelo and Elizabeth Mendez for failure to satisfy a judgment lien. In a separate suit Wandner had obtained a final judgment in the amount of \$21,260.84 against Marlene Ramirez, a non-party to the instant suit, which was properly recorded so that it became a lien on Ramirez' home. Ramirez then sold her home to Nicelo and Elizabeth Mendez and Xpress Title was the closing agent. Prior to the sale, Xpress Title requested a payoff letter from Wandner detailing the definite amounts due under the judgment, which Wandner provided. The closing occurred, but Wandner's judgment was not satisfied. Subsequently, Wandner filed an amended complaint against Xpress Title alleging fraudulent misrepresentation and violations of sections 501.204 and 772.104, Florida Statutes (2004), and against the Mendezes to foreclose upon the property. The trial court entered a default judgment against Xpress Title for failure to file a responsive pleading, and later, entered a final judgment against Xpress Title for the full amount of the judgment lien.

Xpress Title sought to set aside the final judgment alleging that it was fundamental error to enter final judgment without notice to Xpress Title, and that the damages had to be proven at trial where the complaint sought unliquidated damages. After a hearing, the court entered an order denying Xpress Title's motion, finding that the damages set forth in the

complaint were indeed fixed and definite and, therefore, liquidated.

We have examined the record and conclude that the trial court correctly denied the appellant's motion to set aside final judgment, as Wandner's damages were clearly fixed and definite, thus liquidated, ab initio. Damages are liquidated when they can be determined by mathematical calculation or the application of definite rules of law. See Hill v. Murphy, 872 So. 2d 919 (Fla. 2d DCA 2003); see also Dunkley Stucco, Inc. v. Progressive American Ins. Co., 751 So. 2d 723 (Fla. 5th DCA 2000); Fiera.com, Inc. v. DigiCast New Media Group, Inc., 837 So. 2d 451 (Fla. 3d DCA 2002).

Affirmed.