

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

Palm Aire Gardens Condominium
Association, Inc., a Florida Non Profit
Corporation,

CASE NO. CACE10016810 (08)

Plaintiff,

v.

Wells Fargo Bank, N.A., and any unknown
heirs, devisees, grantees, creditors, and other
unknown persons or unknown spouses
claiming by, through and under Wells Fargo
Bank, N.A.,

Florida Bar No. 62015

Defendant(s).

**MOTION FOR DEFAULT FINAL JUDGMENT
AND TAXATION OF COSTS**

COMES NOW the Plaintiff, by and through its undersigned attorney, pursuant to Fla. R. Civ. P. 1.500(e), and moves this Honorable Court to enter judgment for the relief requested in the Plaintiff's Complaint to Quiet Title against the Defendant, Wells Fargo Bank, N.A., and as grounds therefore states as follows:

1. On April 15, 2010, Plaintiff, Palm Aire Gardens Condominium Association, Inc., filed its Complaint to Quiet Title herein against the Defendant, Wells Fargo Bank, N.A.
2. On April 16, 2010, the Defendant, Wells Fargo Bank, N.A., was served with the summons and complaint filed herein through the Defendant's Registered Agent.
3. Defendant failed to file a responsive pleading to Plaintiff's complaint filed herein.
4. On May 13, 2010, Plaintiff filed a Motion for Entry of Clerk's Default against the Defendant and the Clerk entered its Default on said date.
5. Plaintiff is the titleholder(s) of a certain parcel of real property located and situated in Broward County, Florida, at 4281 W. McNab Road, Unit 25, Pompano Beach, FL 33069 (the

"Property") which lies within the community administered by the Plaintiff and is legally described as:

Unit No. 25, Building 4281, of PALM AIRE GARDENS
CONDOMINIUM, according to the Declaration of Condominium
thereof, recorded in Official Records Book 40119, Page 1225 of
the Public Records of Broward County, Florida.

6. On January 5, 2010, Plaintiff took title to the Property pursuant to the Certificate of Title recorded in Official Records Book 46794, at Page 705 of the Public Records of Broward County, Florida as a result of its foreclosure action on its statutory and contractual claim of lien.

7. Defendant is the holder of a first mortgage recorded in Official Records Book 41485, at Page 359 of the Public Records of Broward County, Florida (the **"Mortgage"**) encumbering the Property that greatly exceeds the fair market value of the Property.

8. Defendant's borrower is in egregious default of the Mortgage by failing to make any Mortgage payments for an extended period of time and allowing him/herself to be stripped of title to the subject Property.

9. On October 7, 2008, Defendant filed a foreclosure action against the borrower. According to the pleadings filed in said foreclosure case, the Defendant was at that time owed \$184,410.00 in principal under the Promissory Note secured by the Mortgage, plus interest from January 20, 2008 forward.

10. On March 4, 2009, Defendant voluntarily dismissed its foreclosure action against the Property and released its Lis Pendens on the Property.

11. Defendant has deliberately abandoned its interest in the Property by failing to diligently pursue the debt owed to Defendant on the outstanding Mortgage. However, Defendant has failed to release its Mortgage.

12. As titleholder of the Property, the Plaintiff is restricted from selling the Property because Defendant's Mortgage grossly exceeds the value of the Property.

13. Two comparable units within the Palm Airc Condominium have recently sold for an average sales price of \$43,500.00 which is less than 1/4th of the amount of the Mortgage now encumbering the Property.

14. Defendant's failure to pursue the debt owed on the Mortgage has obligated the Plaintiff and its members to continue to bear the burden of preserving the Property.

15. Defendant's Mortgage unreasonably restrains the alienability of the Property for an indefinite period of time.

16. Plaintiff is entitled to the relief requested in the complaint to quiet title and for an award for costs under Florida Statutes §57.041.

17. Plaintiff incurred the following costs as a result of Defendant's abandonment of its Mortgage:

Taxable Costs pursuant to affidavit of Plaintiff filed	\$ 461.00
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herein:

WHEREFORE, Plaintiff moves for the entry of a Default Final Judgment in its favor and against the Defendant(s) for a Judgment declaring that Wells Fargo's Mortgage on the Property creates an unreasonable restraint on the alienability of the Property; For a Judgment giving Wells Fargo, or any entities or persons claiming by, through and/or under Wells Fargo, the option to accept in writing filed with the Court by a date certain legal and equitable title to the Property from the Plaintiff forthwith, by a Certificate of Title to be issued by the Clerk of

Court without foreclosure sale, or; In the event the Defendant fails or refuses to accept title by such date certain, for a Judgment declaring that the Plaintiff is the rightful holder of the title to the Property and that Wells Fargo be declared to have abandoned its Mortgage and any claims it may have on the Property, that it has no estate, right, title, or interest in the Property; and that Wells Fargo, and any entities or persons claiming by, through and/or under Wells Fargo be forever enjoined from claiming any estate, right, title, or interest in the Property in the event they fail or refuse to elect to take title to the Property by a date certain; for costs of suit incurred herein; and for such other and further relief which this Court may deem just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed via U.S. mail and certified mail to: Wells Fargo Bank, N.A., c/o its registered agent, Corporation Service Company, 1201 Hays Street, Tallahassee, FL 32301 and at its last known business address, 420 Montgomery Street, San Francisco, CA 94163 on June 24, 2010.

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