

Filing # 174064761 E-Filed 05/26/2023 11:26:28 AM

IN THE CIRCUIT COURT OF THE 19TH
JUDICIAL CIRCUIT, IN AND FOR
INDIAN RIVER COUNTY, FLORIDA

CASE NO. 31-2023-CA-000069-XXXXXX

BELLEFRAU GROUP LLC, a Florida limited
liability company,

Plaintiff,

vs.

DAWN BARCLAY-ROSS, RIOMAR BAY, UNIT TWO,
PROPERTY OWNERS' ASSOCIATION, INC.,
ABALLI MILNE KALIL, P.A., a Florida corporation,
COASTLINE PAINTING PROFESSIONALS LLC, and
CARIBBEAN LAWN AND LANDSCAPING, INC.,

Defendants.

FINAL JUDGMENT OF FORECLOSURE

This action was heard before the Court on May 25, 2023, on the Plaintiff's Motion for Final Summary Judgment of Foreclosure and on Defendant, Aballi Milne Kalil, P.A.'s Motion for Final Summary Judgment of Foreclosure of its second mortgage, and the Court after having considered the motions, arguments of counsel, and being otherwise duly advised in the premises,

IT IS ORDERED AND ADJUDGED that:

1. Motions Granted; Final Judgment. There is no dispute of material facts and each motion for summary judgment is granted. The Plaintiff and the Defendant, Aballi Milne Kalil, P.A., are entitled to entry of this final judgment.

2. Amounts Due to Plaintiff. Plaintiff, BELLEFRAU GROUP LLC, 13 Royal Palm Pointe, Vero Beach, Florida 32960, is due:

Principal	\$2,550,000.00
-----------	----------------

Interest on the note and mortgage from 9/1/22
through 9/30/22 at 12% per annum (30 days

@ \$850.00 per diem)	\$25,550.00
Interest on the note and mortgage from 10/1/22 through 5/25/23 at 18% per annum (236 days @\$1,275.00 per diem)	\$300,900.00
Late Charges	\$10,341.64
Title search expense	\$180.00
Attorneys' fees Finding as to reasonable number of hours – 62 hours Finding as to reasonable hourly rate - \$400.00 / hour Attorneys' fees total	\$24,800.00
Court costs Filing fee	\$2,119.00
Service of Process at \$ 40.00 per defendant	\$120.00
TOTAL	\$2,914,010.64

3. **Interest.** The total amount in paragraph 2 shall bear interest from this date forward at the prevailing statutory rate of interest.

4. **Lien on Property.** Plaintiff holds a lien for the total sum superior to all claims or estates of defendant(s), (with the exception of any assessments that are superior pursuant to Section 718.116, or 720.3085, Florida Statutes) on the following described property in Indian River County, Florida:

**Lot 36, Riomar Bay, Unit Two, according to the map or plat thereof,
as recorded in Plat Book 11, Page(s) 65, 65A and 65B, Public Records
of Indian River County, Florida**

**Property Address: 770 Lake Drive, Vero Beach, Florida 32963
Parcel ID: 33400500027000000036.0**

5. **Sale of Property.** If the total sum with interest at the rate described in paragraph 2 and all costs accrued subsequent to this judgment are not paid, the clerk of this court shall sell the property at public sale on July 5, 2023 to the highest bidder for

cash, except as prescribed in paragraph 6, by electronic sale at www.indian-river.realforeclose.com beginning at 10:00 a.m. in accordance with section 45.031, Florida Statutes. **The public sale shall not be postponed or canceled without a court order. All orders postponing or canceling the sale must be filed with the clerk of court no later than 5:00 p.m. five (5) business days before the sale date. Counsel for plaintiff must be certain that all sale and clerk fees are paid and that the original proof of publication is filed no less than five (5) business days before the sale date. Failure to timely file the original proof of publication of the notice of sale and pay the sale and clerk fees will stop the sale. Additionally, the failure of plaintiff's counsel to pay the sale fee and properly and timely publish the notice of sale may result in sanctions against the plaintiff, plaintiff's counsel individually, and the law firm representing the plaintiff.** Any electronic sale by the clerk shall be in accordance with the written administrative policy for electronic sales published by the clerk at the official website for the clerk and posted in the public areas of the clerk's offices.

6. **Costs.** Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the clerk if plaintiff is not the purchaser of the property for sale, provided, however, that the purchaser of the property for sale shall be responsible for the documentary stamps payable on the certificate of title. If plaintiff is the purchaser, plaintiff shall file an affidavit within 5 business days and the clerk shall credit plaintiff's bid with the total sum with post-judgment interest and costs accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full. The clerk shall receive the service charge imposed in Section 45.031, Florida Statutes.

7. **Distribution of Proceeds.** On filing the certificate of title, the clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of plaintiff's costs; second, documentary stamps affixed to the certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 3 from this date to the date of the sale; fifth, the total sum due to Aballi Milne Kalil, P.A., as further detailed below, with interest at the rate prescribed in paragraph 13 from this date to the date of the sale; and by retaining any remaining amount pending further order of this court.

8. **Right of Redemption.** On filing the certificate of sale, defendant(s) and all persons claiming under or against defendant(s) since the filing of the notice of lis pendens shall be foreclosed of all estate or claim in the property, except as to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any.

9. **Right of Possession.** Upon filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property. If any defendant or

tenant remains in possession of the property, an Order Granting the Motion For Writ of Possession shall be entered without further notice or hearing, subject to the purchaser's compliance with Section 83.561, Florida Statutes.

10. Jurisdiction Retained. Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, a deficiency judgment, writs of possession and such supplemental relief or judgments as may be appropriate.

11. Additional Motions Granted. During the hearing on the Motions for Final Summary Judgment of Foreclosure, the Court granted both motions for summary judgment and also granted Defendant/Cross-Plaintiff, Aballi Milne Kalil, P.A.'s *ore tenus* motion for entry of default against Cross-Defendant Michael K. Keeney, who was served personally on April 20, 2023, but failed to file or serve any document in the action. Additionally, the Court granted Defendant/Cross-Plaintiff, Aballi Milne Kalil, P.A.'s pending Motion for Requests for Admission directed to DAWN BARCLAY-ROSS to be Admitted for failure to timely answer or object. Such requests are deemed admitted for all purposes.

12. Amounts Due to Aballi Milne Kalil, P.A. Defendant/Cross-Plaintiff, ABALLI MILNE KALIL, P.A., One Southeast Third Avenue, Suite 2250, Miami, Florida 33131, is due:

Principal	\$250,000.00
-----------	--------------

(Aballi Milne Kalil, P.A. elected to not seek interest on the promissory note, attorneys' fees or costs which they may otherwise be entitled to)

TOTAL	\$250,000.00
--------------	---------------------

13. Interest. The total amount in paragraph 12 shall bear interest from this date forward at the prevailing statutory rate of interest.

14. Lien on Property. Aballi Milne Kalil, P.A. holds a lien for the total sum that is subordinate to Plaintiff's lien but superior to all other claims or estates of defendant(s), (with the exception of any assessments that are superior pursuant to Section 718.116, or 720.3085, Florida Statutes) on the following described property in Indian River County, Florida:

**Lot 36, Riomar Bay, Unit Two, according to the map or plat thereof,
as recorded in Plat Book 11, Page(s) 65, 65A and 65B, Public Records**

of Indian River County, Florida

Property Address: 770 Lake Drive, Vero Beach, Florida 32963

Parcel ID: 33400500027000000036.0

15. Disbursement of Surplus Proceeds from Sale of Property. In the event that a sale of the property occurs in accordance with paragraph 5 above and the proceeds from the sale exceed the amounts necessary to pay all sums then owed to the Plaintiff, then the clerk shall distribute such surplus proceeds, so far as they are sufficient, by paying Aballi Milne Kalil, P.A. the total sum due to Aballi Milne Kalil, P.A., plus interest at the rate prescribed in paragraph 13 from this date to the date of the sale. The clerk shall retain any remaining amount pending further order of this court. The Court retains jurisdiction of this action to enter a deficiency judgment in favor of Aballi Milne Kalil, P.A.

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THE FINAL JUDGMENT. IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, 2000 16TH AVENUE, VERO BEACH, FLORIDA 32960 – CIVIL DIVISION (772-770-5185) WITHIN 10 DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT FLORIDA RURAL LEGAL SERVICE – FORT PIERCE OFFICE, 510 SOUTH US HIGHWAY 1, SUITE 1, FORT PIERCE, FLORIDA 34948, (772) 466-4776, TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY

OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT FLORIDA RURAL LEGAL SERVICE – FORT PIERCE OFFICE, (772) 466-4776, FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

DONE AND ORDERED on _____ at Vero Beach, Florida.

05/26/2023 11:25:33
2023 CA 000069

eSigned by JANET CARNEY CROOM (NOT) 05/26/2023 11:25:33 xmO6uBak

Janet C. Croom
CIRCUIT JUDGE

Copies Furnished by e-portal to:

Fred L. Kretschmer, Jr., Esq.

Email: flk@veroattorneys.com; clarissa@veroattorneys.com

Attorney for Plaintiff

Coastline Painting Professionals LLC

Email: charleswillett@bellsouth.net

Defendant

Charles W. McKinnon, Esq.

Email: sicwmlaw@bellsouth.net

Attorney for Defendant Riomar Bay, Unit Two POA

Craig P. Kalil, Esq.

Matthew Deblinger, Esq.

Email: ckalil@aballi.com; mdeblinger@aballi.com

Attorney for Defendant Aballi Milne Kalil

Dawn Barclay-Ross

Email: dawnbarclayross@gmail.com

Defendant