

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ANDREY BARHATKOV,)	
)	
Appellant,)	
)	
v.)	Case No. 2D10-1640
)	
HSBC BANK USA, NATIONAL)	
ASSOCIATION, as Trustee for DBALT)	
2006-AF1; and LESLIE S. BARHATKOV,)	
)	
Appellees.)	
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Opinion filed June 15, 2011.

Appeal pursuant to Fla. R. App. P. 9.130
from the Circuit Court for Polk County;
Karla F. Wright, Judge.

Andrey Barhatkov, pro se.

Michael K. Winston and Dean A. Morande
of Carlton Fields, P.A., West Palm Beach,
for Appellee HSBC Bank USA, National
Association, as Trustee for DBALT 2006-
AFI.

No appearance for Appellee Leslie S.
Barhatkov.

ALTENBERND, Judge.

Andrey Barhatkov appeals an order denying a stay of a foreclosure sale.

We affirm and write only to explain the unusual posture of this case.

This is an appeal from a nonfinal order pursuant to Florida Rule of Appellate Procedure 9.130. As a result, the parties have provided appendices in lieu of a record, and the record is probably incomplete. We derived the following facts from our limited record.

Leslie S. Barhatkov, who apparently is the wife of Andrey Barhatkov, obtained a loan that was secured by a home in Davenport, Florida. She is the only signatory on the note and mortgage. Andrey Barhatkov signed no documents, and it is unclear from our record whether he has any legal interest in this home. HSBC Bank USA filed a complaint to foreclose the mortgage, naming Leslie S. Barhatkov and "unknown spouse of Leslie S. Barhatkov."

In August 2009, HSBC Bank USA obtained a default against "unknown spouse of Leslie S. Barhatkov N/K/A Andrey Barhatkov." The appendices do not include any of the documents establishing service of process and, thus, we do not know how the unknown spouse became known. The trial court entered a Summary Final Judgment in Foreclosure in September 2009. The style of that final judgment references "unknown spouse of Leslie S. Barhatkov if any." Andrey Barhatkov does not appear to be mentioned anywhere in this final judgment, although he was listed as receiving a copy of the final judgment. No one appealed that judgment.

In March 2010, Leslie S. and Andrey Barhatkov jointly filed a motion for relief from judgment pursuant to Florida Rule of Civil Procedure 1.540(b). The order on appeal in this proceeding is the order denying that motion. Only Andrey Barhatkov filed a notice of appeal in this case. When he filed his brief, he listed only Leslie S. Barhatkov as the appellant, indicating that he was filing the brief for her. He is not a

lawyer, and we have treated the brief as filed by Andrey Barhatkov on behalf of himself. Under the rules of procedure, Leslie S. Barhatkov is an appellee. See Fla. R. App. P. 9.020(g)(2). She never made a motion to be joined as an appellant. See Fla. R. App. P. 9.360(a).

Given that Andrey Barhatkov is not a signatory on any of the relevant loan documents, and nothing in the appendix suggests that he has homestead rights or any legal interest in the real property subject to foreclosure or that he could have a deficiency judgment entered against him, he has raised no issue entitling him to any relief in this proceeding.

Affirmed.

KELLY and CRENSHAW, JJ., Concur.