

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GUSTAVIA HOME, LLC

Plaintiff,

-against-

MIGUEL ALVAREZ
and JOHN DOE "1 through "12" said persons
having or claimed to have a right, title or interest
in the Mortgaged premises herein, their respective
names are presently unknown to the Plaintiff,

Defendants.

-----X

ORDER ADOPTING R & R

16-CV-6633(DRH)(SIL)

HURLEY, Senior District Judge:

Presently before the Court is the Report and Recommendation, dated June 2, 2017, of Magistrate Judge Steven I. Locke recommending the following on plaintiff's motion for default judgment: (1) a default judgment be granted against Defendant Miguel Alvarez and that plaintiff be awarded a total of \$91,666.25, together with per diem pre-judgment interest in the amount of 15.07 per day until judgment is entered and post-judgment interest pursuant to 28 U.S.C. § 1961(a); and (2) that the request for a Judgment of Foreclosure and Sale be denied without prejudice as Plaintiff has not indicated how it wishes to proceed with respect to Defendants John Doe 1 through 12. More than fourteen days have elapsed since service of the Report and Recommendation and no objections have been filed. However, after issuance the Report and Recommendation plaintiff filed a notice of voluntary dismissal as against the Doe defendants.

Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and result as to that portion of the Report and Recommendation that recommended a default

judgment be granted against defendant Miguel Alvarez and that plaintiff be awarded a total of \$91,666.25, together with per diem pre-judgment interest in the amount of 15.07 per day until judgment is entered and post-judgment interest pursuant to 28 U.S.C. § 1961(a). In view of the subsequent dismissal of the claims against the Doe defendants, there is no reason to deny a judgment of foreclosure and sale. As modified, the Court adopts the June 2, 2017 Report and Recommendation of Judge Locke. Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for a default judgement against defendant MIGUEL ALVAREZ is granted to the extent that Plaintiff is awarded a total of \$91,666.25, together with per diem pre-judgment interest in the amount of 15.07 per day from June 3, 2017 to the date judgment is entered and post-judgment interest pursuant to 28 U.S.C. § 1961(a) and the Court will on this date execute a Judgment of Foreclosure and Sale substantially in the revised form proposed by plaintiff.

Dated: Central Islip, N.Y.
July 12, 2017

/s/ Denis R. Hurley
Denis R. Hurley
United States District Judge