

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

MAX TALBOT and ELLEN TALBOT,)

Appellant,)

v.)

COUNTRYWIDE HOME LOANS, INC., a)
corporation,)

Appellee.)
_____)

Case No. 2D07-1437

Opinion filed February 20, 2008.

Appeal from the Circuit Court for Polk
County; Roger Allan Alcott, Judge.

Jeffrey M. Liggio of Liggio, Benrubi & Williams,
P.A., West Palm Beach, and Philip M. Burlington
of Burlington & Rockenbach, P.A., West Palm
Beach, cocounsel for Appellants.

Katherine E. Giddings of Akerman Senterfitt,
Tallahassee, and William P. Heller of Akerman
Senterfitt, Fort Lauderdale, counsel for Appellee.

PER CURIAM.

Affirmed.

FULMER and WALLACE, JJ., Concur.
LaROSE, J., Concurs with opinion.

LaROSE, Judge, Concurring.

Mr. and Mrs. Talbot sued Countrywide, alleging that Countrywide improperly exacted a prepayment penalty upon accelerating payments due on a note and mortgage. After Hurricane Jeanne destroyed their home, the Talbots directed Countrywide to use their insurance proceeds to pay off the note and mortgage. Although Countrywide assessed a prepayment penalty under the note, the record before the trial court reflected clearly that Countrywide did not accelerate payment under the mortgage terms. On this basis, the trial court correctly entered a final summary judgment in favor of Countrywide and against the Talbots.