

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, A.D. 2003

FELIX JUAN,

**

Appellant,

**

CASE NO. 3D02-2769

**

vs.

**

FAME INTERNATIONAL BAY, INC.,

**

LOWER TRIBUNAL
CASE NO. 00-2411

**

Appellee.

**

Opinion filed May 21, 2003.

An appeal of a non-final order from the Circuit Court of
Miami-Dade County, Amy N. Dean, Judge.

Mandelbaum & Fitzsimmons and Scott Hewitt (Tampa), for
appellant.

Leon A. Williamson, Jr. (Tampa), for appellee.

Before COPE, LEVY, and FLETCHER, JJ.

PER CURIAM.

Our review of the record leads us to the conclusion that the
trial court erred when it defaulted the defendant. See Rule

1.500(b), Fla. R. Civ. P. As the final judgment was based upon the invalid default, the trial court erred when it denied Felix Juan's motion to set aside default and default final judgment. See Green Solutions Int'l., Inc. v. Gilligan, 807 So. 2d 693 (Fla. 5th DCA 2002). Accordingly, the order appealed is reversed and the cause remanded for further proceedings consistent herewith.

Reversed and remanded.