

STATE OF MICHIGAN
COURT OF APPEALS

ETON STREET STATION II CONDOMINIUM
ASSOCIATION,

UNPUBLISHED
December 13, 2011

Plaintiff-Appellant,

v

SYED M. AHMED,

No. 300423
Oakland Circuit Court
LC No. 2010-107443-CH

Defendant-Appellee.

Before: O'CONNELL, P.J., and MURRAY and DONOFRIO, JJ.

PER CURIAM.

Plaintiff appeals as of right from a default judgment entered in its favor that denied it the right to foreclose. Because the trial court failed to explain its decision denying foreclosure of the lien, we reverse in part and remand for further proceedings.

Plaintiff filed a complaint seeking foreclosure of a condominium association lien (count I) and money damages for unpaid assessments (count II). When defendant failed to plead or otherwise defend the action, a default was entered against him. Plaintiff then moved for entry of a default judgment, but the trial court stated at a hearing that it would not grant all of plaintiff's requested relief. The court entered a default judgment that did not authorize foreclosure, and the provisions in the proposed judgment concerning foreclosure were stricken. On appeal, plaintiff argues that the trial court erred by refusing to grant all of the remedies that it sought, which it claims are mandated by the Condominium Act, MCL 559.101 *et seq.*

Foreclosure actions are equitable in nature, and although we review equitable decisions *de novo*, we review the findings of fact supporting those decisions for clear error. *Mitchell v Dahlberg*, 215 Mich App 718, 726-727; 547 NW2d 74 (1996). The decision whether to enter a default judgment or to conduct further proceedings pursuant to MCR 2.603(B)(3)(b) is within the discretion of the trial court. See MCR 2.603(B)(3)(b) ("the court may conduct hearings . . ."); *Wood v DAHIE*, 413 Mich 573, 585; 321 NW2d 653 (1982) (recognizing discretion under the predecessor court rule).

Plaintiff's argument concerns the trial court's oral ruling on the record and disregards the judgment that was entered. Plaintiff discusses at length the trial court's oral statements and contends that the court should "be reversed in its refusal to award assessments, late charges, costs and fees between the date of judgment and satisfaction of that judgment (or the expiration

of redemption)” However, “a court only speaks through written judgments and orders.” *Brausch v Brausch*, 283 Mich App 339, 353; 770 NW2d 77 (2009). The default judgment that the court entered states that defendant “shall be and hereby is obligated to pay all Association assessments, special and/or additional assessments, interest . . . and late charges through the date of satisfaction or redemption” The judgment also provides that defendant “shall be and hereby is obligated to pay all additional reasonable attorneys’ fees that the Association incurs in attempting to collect the aforementioned sums due and owing it throughout and including the redemption period to be determined[.]” Plaintiff’s arguments pertaining to the court’s oral ruling are misguided because the judgment includes provisions recognizing plaintiff’s entitlement to assessments, costs, and attorney fees.¹

The default judgment does not, however, authorize plaintiff to foreclose on its lien as it requested in its complaint. MCL 559.206 and MCL 559.208 recognize a condominium association’s right to foreclose on a lien. When the trial court entered the judgment as a final order, it effectively dismissed plaintiff’s action for foreclosure without providing any reason for denying such relief. Because the court did not make any findings or explain the basis for its decision, we reverse in part and remand for the trial court to reevaluate this matter and make findings supporting its decision.

Reversed in part and remanded for further proceedings. We do not retain jurisdiction.

/s/ Peter D. O’Connell
/s/ Christopher M. Murray
/s/ Pat M. Donofrio

¹ Although plaintiff represents that counsel inadvertently neglected to strike these provisions to comport with the trial court’s oral ruling, the provisions are included in the judgment, and it is the judgment, rather than the oral ruling, that this Court reviews. *Brausch*, 283 Mich App at 353.