

441 So.2d 670
District Court of Appeal of Florida,
Third District.

Delphine SCUTIERI, Frank Adubato
and Joan Adubato, his wife, Appellants,

v.

SUNRISE POINT CONDOMINIUM ASSOCIATION,
INC., a Florida corporation, Appellee.

No. 83-339. | Oct. 18, 1983.
| Rehearing Denied Dec. 15, 1983.

Appeal was taken from judgment of foreclosure entered by the Circuit Court, Dade County, Jack Turner, J., in action by condominium association. The District Court of Appeal held that: (1) assessments properly approved by condominium board of directors were valid; (2) 75% unit membership approval was not required; and (3) condominium association was entitled to award of reasonable attorney fees and costs incurred in prosecuting action.

Affirmed in part; reversed in part and remanded.

West Headnotes (4)

[1] **Common Interest Communities**

🔑 Power and duty to assess or levy; validity

Assessments that were properly approved by condominium board of directors were valid under condominium bylaws.

[Cases that cite this headnote](#)

[2] **Common Interest Communities**

🔑 Lien foreclosure; other remedies and proceedings for nonpayment

In foreclosure action brought by condominium association, evidence was insufficient to show that assessments exceeded amount beyond which 75% unit membership approval was required under condominium bylaws.

[Cases that cite this headnote](#)

[3] **Common Interest Communities**

🔑 Lien foreclosure; other remedies and proceedings for nonpayment

Trial court was correct in ordering foreclosure in action brought by condominium association involving assessments which were properly approved by condominium board of directors.

[Cases that cite this headnote](#)

[4] **Common Interest Communities**

🔑 Lien foreclosure; other remedies and proceedings for nonpayment

Common Interest Communities

🔑 Costs and attorney fees

Condominium association was entitled to attorney fees and costs incurred in prosecuting foreclosure action. West's F.S.A. §§ 57.041, 718.116(4)(a), 718.303(1).

[Cases that cite this headnote](#)

Attorneys and Law Firms

*671 Sparber, Shevin, Rosen, Shapo & Heilbronner and Jeffrey M. Weissman and Nancy Schleifer, Miami, for appellants.

Becker, Poliakoff & Streitfeld and Edward S. Polk, Fort Lauderdale, for appellee.

Before HENDRY and HUBBART and JORGENSEN, JJ.

Opinion

PER CURIAM.

[1] [2] [3] The final judgment of foreclosure, save for the denial of attorney's fees, and costs, is affirmed upon a holding that: (1) the assessments involved in this cause were valid assessments under 6.2, 6.3 of the condominium by-laws because they were properly approved by the condominium board of directors, (2) there was an insufficient evidentiary showing below that the assessments exceeded 105% of the amount budgeted in the prior year's budget for current expenses and therefore 75% unit membership approval of the said assessments was not required under 6.2a, 6.2f of

the condominium by-laws, (3) the trial court was therefore correct in ordering foreclosure in this case, although it relied on another unrelated ground which we do not reach.

[4] The final judgment of foreclosure is reversed on the cross appeal as to paragraph 12 thereof insofar as it denies attorney's fees and costs to the appellee condominium

association and the cause is remanded to the trial court with directions to award reasonable attorney's fees and costs to said condominium association for prosecuting this action. §§ 57.041, 718.116(4)(a), 718.303(1), Fla.Stat. (1981).

Affirmed in part; reversed in part and remanded.

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