Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D32701
H/prt

_____AD3d_____ Argued - September 27, 2011

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
LEONARD B. AUSTIN
SANDRA L. SGROI, JJ.

2010-08688 DECISION & ORDER

Fremont Investment & Loan, respondent, v
Courtney Bertram, appellant.

(Index No. 22462/06)

Vivek Suri, New York, N.Y., for appellant.

Stevens & Lee, New York, N.Y. (Bradley L. Mitchell and Constantine D. Pourakis of counsel), for respondent.

In an action to foreclose a mortgage, the defendant appeals from an order of the Supreme Court, Queens County (Grays, J.), entered July 12, 2010, which denied his motion to vacate a judgment of foreclosure and sale of the same court dated April 23, 2007, entered upon his default in appearing or answering.

ORDERED that the order is affirmed, with costs.

The Supreme Court properly denied the defendant's motion, inter alia, to vacate a judgment of foreclosure and sale entered against him upon his default in appearing or answering. A defendant seeking to vacate a default in appearing or answering must demonstrate a reasonable excuse for the default and a potentially meritorious defense to the action (*see* CPLR 5015[a][1]; *Citimortgage, Inc. v Brown*, 83 AD3d 644, 645; *Development Strategies Co., LLC v Astoria Equities, Inc.*, 71 AD3d 628). Here, the defendant failed to set forth a reasonable excuse for his default in appearing or answering the complaint. We therefore need not reach the issue of whether the defendant proffered a potentially meritorious defense to the action.

The defendant's remaining contentions either are without merit or need not be reached in light of the foregoing determination.

RIVERA, J.P., FLORIO, AUSTIN and SGROI, JJ., concur.

ENTER:

Aprilanne Agostino
Clerk of the Court