

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOYCE H. REID and
JOSEPH W. REID,

Plaintiff,

v.

SN SERVICING CORPORATION,
WILLIAM REYES, DONALD
BRUNS and JONATHAN D.
McCOLLISTER,

Defendants.

ORDER

05-C-239-C

This civil case for injunctive relief and money damages was filed by plaintiffs Joyce H. Reid and Joseph W. Reid on April 19, 2005. With their complaint, plaintiffs filed a motion for preliminary injunction, which was set for a hearing on May 13, 2005 and continued until June 17, 2005, because plaintiff Joyce H. Reid was hospitalized. The hearing went forward on June 17 in Joyce Reid's absence because she remains hospitalized. Joseph W. Reid appeared in person. Also present was Todd Korb, appearing specially on behalf of defendants SN Servicing Corporation and Jonathan D. McCollister and reserving his clients' right to raise jurisdictional defenses because they have not yet been served.

William Reyes and Donald Bruns did not appear.

At the hearing, plaintiff Joseph Reid adduced no evidence to support plaintiffs' request for preliminary injunctive relief reversing the foreclosure on their property and advanced no arguments for not dismissing the case. I advised Joseph Reid that it was highly unlikely that this case could proceed. If, as plaintiffs contend, their homestead was taken from them through a sham legal process in the Circuit Court for Dane County, Wisconsin, their only remedy was to take an appeal to the state court of appeals and, if necessary, to the state supreme court. Federal district courts do not have the authority to review the decisions of state courts in civil actions.

Plaintiffs did not take advantage of the remedy that they had, which was to appeal from the adverse result of the foreclosure proceeding. Instead, they filed a suit in this court on October 10, 2003, which was assigned to Judge Shabaz. In that suit, plaintiffs contended that defendants SN Servicing Corporation, Jonathan McCollister, Nations Credit Home Equity Services Corporation and Maryann Sumi had conspired to violate plaintiffs' right to due process. Plaintiffs alleged that defendant Sumi had permitted the foreclosure action to proceed despite defendants' inability to produce the promissory note allegedly in default. Judge Shabaz dismissed defendant Sumi under the Rooker-Feldman doctrine, which establishes that federal courts lack jurisdiction to review the final judgments of state courts. Subsequently, he dismissed defendant Nations Credit because plaintiffs had not shown any

action by this defendant that injured them and they did not oppose its motion for dismissal. He dismissed defendants SN Servicing and McCollister on Rooker-Feldman grounds and because plaintiffs had not alleged facts showing that these defendants had been acting under color of state law when they took the actions plaintiffs complained of. Plaintiffs appealed the order dismissing Judge Sumi as a defendant but took their appeal before the remaining defendants had been dismissed. In the absence of a final judgment closing the entire case, the court of appeals refused to hear the appeal. Plaintiffs did not renew their appeal once the remaining defendants were dismissed and final judgment was entered.

In their case in this court, plaintiffs have not named Nations Credit or Judge Sumi as defendants. However, they have added William Reyes, although they allege nothing about his involvement in any wrongdoing, and Donald Bruns, who is alleged to have agreed to provide legal counsel to plaintiffs to assist them in resolving “substantial trust issues in Arizona to absolve the[ir] financial problems” but who had no intention of providing such services; his “only intent was to defraud [plaintiffs] of the property via the subterfuge of *predatory lending*. Cpt., dkt. #2, at 3. (Emphasis in original.) Plaintiffs contend that defendants’ actions, together with those of Nations Credit and Judge Sumi, amount to racketeering in violation of 18 U.S.C. § 1962. It is noteworthy, however, that although plaintiffs are alleging racketeering acts by defendants, their motion for preliminary injunctive relief was directed only to the judgment of foreclosure on their property that was entered

against them by default on April 7, 2003. It appears that plaintiffs' interest in reversing this judgment lies at the heart of this litigation, making dismissal under Rooker-Feldman inevitable.

Because plaintiff Joyce Reid was not able to be present at the June 17 hearing, I will give her and plaintiff Joseph Reid an opportunity to submit a written brief setting forth any reasons they have why this case should not be dismissed.

ORDER

IT IS ORDERED that plaintiffs Joyce H. Reid and Joseph W. Reid may have until July 22, 2005, in which to advise the court and defendants why this case should not be dismissed on the court's own motion as barred by the principles of res judicata or Rooker-Feldman. If plaintiffs comply with the order, defendants may have until August 5, 2005, in which to respond to the submissions, if they wish. If plaintiffs do not comply, this case will be dismissed for their failure to prosecute it.

FURTHER, IT IS ORDERED that plaintiffs' motion for preliminary injunction is DENIED for plaintiffs' failure to establish any legal basis on which this court could act to

reverse the judgment of foreclosure entered against their property on April 7, 2003.

Entered this 17th day of June, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge