

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

PAUL F. BOHMAN and
MICHELLE L. BOHMAN,

Plaintiffs,

v.

CENLAR FSB and
GRAY AND ASSOCIATES, LLP,

Defendants.

OPINION AND ORDER

12-cv-883-bbc

Acting on their own behalf, plaintiffs Paul and Michelle Bohman have filed a document titled "Motion to Stop Sale of Home," dkt. #1, which I construe as a civil complaint seeking injunctive relief and attempting to raise claims under the Truth in Lending Act, Home Ownership Equity Protection Act and other federal and state causes of action. Plaintiffs filed this case after judgment of foreclosure was entered against them in the Circuit Court for Clark County in case no. 11-cv-226 (Nov. 21, 2011). Defendant Gray and Associates, LLP has filed a motion to remand the case as improperly removed, or alternatively, to dismiss the case. Plaintiffs have failed to respond by the deadline set by the court.

From plaintiffs' pleading, I do not understand them to be attempting to remove the state court case. (Nor could they, for it is far past the 30 days they had in which to remove

the case following receipt of the complaint in the state court case. 28 U.S.C. § 1446(b)(1).) In any case, I will grant defendant Gray and Associates' motion to the extent it seeks dismissal under the Rooker-Feldman doctrine. In a December 27, 2012 order in case no. 12-cv-947, I dismissed a similar case filed by plaintiffs, stating as follows:

However, documents attached to [plaintiffs'] motion suggest that they might be trying to pursue a claim against defendants Cenlar FSB and Bayview Loan Servicing on the ground that these defendants violated the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.* or some other federal law. If so, plaintiffs would face still another obstacle to maintaining a suit in federal court. The Rooker-Feldman doctrine prohibits federal courts other than the Supreme Court from exercising subject matter jurisdiction when the federal plaintiffs allege that their injury was caused by a state court judgment. Exxon Mobil Corp.v. Saudi Basic Industries Corp., 544 U.S. 280, 284 (2005); see also Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). In addition, the Rooker-Feldman doctrine "precludes federal jurisdiction over claims 'inextricably intertwined' with a state court determination . . . even when those claims were never argued in the state court." Remer v. Burlington Area School District, 205 F.3d 990, 996 (7th Cir. 2000). Even if plaintiffs have federal law claims under the Truth in Lending Act, they cannot raise them in this court when they either failed to raise the claims in state court or raised them unsuccessfully. Their recourse is in the state appellate system, not in the federal district court, which has no authority to overturn a state court judgment such as the one that presumably underlies the writs of execution and assistance issued by the state court.

Plaintiffs' current case suffers from the same problem as their previous case: the Rooker-Feldman doctrine prohibits plaintiffs from litigating their claims in this court because the claims are "inextricably intertwined" with their state foreclosure action. Accordingly, this case must be dismissed for lack of jurisdiction.

ORDER

IT IS ORDERED that the motion to dismiss filed by defendant Gray and Associates, LLP, dkt. #3, is GRANTED and this case is DISMISSED for lack of jurisdiction. The clerk of court is directed to enter judgment for defendants and close this case.

Entered this 8th day of February, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge