U.S. Bank, National Association v. Canyon Trails Homeowners Association et al

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * * U.S. BANK NATIONAL ASSOCIATION,

Plaintiff(s), v. CANYON TRAILS HOMEOWNERS ASSOCIATION, et al.,

Defendant(s).

Case No. 2:17-CV-1239 JCM (NJK)

ORDER

Presently before the court is dismiss. (ECF No. 10). Plaintiff U.S. Bank, (ECF No. 14), to which VPS replied (ECF No. 15).

I. Facts

This case involves a dispute over real property located at 7252 Quarterhorse Lane, Las Vegas, Nevada 89148 August 10, 2005, Ronald Reitz, Jr. and Leah L. Kackstetter obtained a loan from Prado Mortgage in the amount of $224,000.00 to purchase the property, which was secured by a deed of trust recorded on August 16, 2005. (ECF No. 1).

On March 30, 2012, defendant Terra West Collections Group LLC d/b/a Assessment of $808.56. (ECF No. 1).

The deed of trust was assigned to US Bank via an assignment of deed of trust recorded on August 8, 2012. (ECF No. 1).

On September 17, 2012, AMS recorded a notice of default and election to sell to satisfy the delinquent assessment lien, stating an amount due of $1,886.76. (ECF No. 1).

On October 15, 2012, requested a ledger from the HOA/AMS identifying the superpriority amount allegedly owed to the HOA. (ECF No. 1). The HOA/AMS provided a ledger, but allegedly refused to

identify the superpriority amount. (ECF No. 1).

On November 13, 2014 $5,489.72. (ECF No. 1).

BANA calculated the superpriority amount to be $931.91 and tendered that amount to AMS on November 15, 2012, which AMS allegedly refused. (ECF No. 1).

On December 8, 2014, VPS purchased the property at the foreclosure sale for $85,600.00. VPS was recorded on December 18, 2014. (ECF No. 1).

On May 3, 2017, US Bank filed the underlying complaint, alleging four causes of action: (1) quiet title/declaratory judgment against all defendants; (2) breach of NRS 116.1113 against AMS and the HOA; (3) wrongful foreclosure against AMS and the HOA; and (4) injunctive relief against VPS. (ECF No. 1). In the instant motion, VPS moves to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). (ECF No. 10). II. Legal Standard

ich relief can be Fed. R. Civ. P. 12(b)(6). Fed. R. Civ. P. 8(a)(2); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007). While Rule 8 does not require detailed Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citation omitted).

Twombly, 550 U.S. at 555. Thus, to survive a motion to dismiss, a complaint must contain sufficient factual Iqbal, 556 U.S. at 678 (citation omitted). In Iqbal, the Supreme Court clarified the two-step approach district courts are to apply when considering motions to dismiss. First, the court must accept as true all well-pled factual allegations in the complaint; however, legal conclusions are not entitled to the assumption of truth. Id. at 678 79. Mere recitals of the elements of a cause of action, supported only by conclusory statements, do not suffice. Id. at 678. Second, the court must consider whether the factual allegations in the complaint allege a plausible claim for relief. Id. at 679. alleges facts that allow the court to draw a reasonable inference that the defendant is liable for the

alleged misconduct. Id. at 678. Where the complaint does not permit the court to infer more than the mere possibility of miscond but not shown Id. (internal quotation marks omitted). When the allegations in a complaint have not crossed the line from conceivable to plausible, plaintiff's claim must be dismissed. Twombly, 550 U.S. at 570. The Ninth Circuit addressed post-Iqbal pleading standards in Starr v. Baca, 652 F.3d 1202, 1216 (9th Cir. 2011). The Starr court stated, in relevant part:

First, to be entitled to the presumption of truth, allegations in a complaint or counterclaim may not simply recite the elements of a cause of action, but must contain sufficient allegations of underlying facts to give fair notice and to enable the opposing party to defend itself effectively. Second, the factual allegations that are taken as true must plausibly suggest an entitlement to relief, such that it is not unfair to require the opposing party to be subjected to the expense of discovery and continued litigation. Id. III. Discussion

In the instant motion, VPS argues that dismissal of the complaint is proper based on the Colorado River doctrine because a prior-filed case involving the same parties and similar claims is currently pending in Nevada state court. (ECF No. 10 at 6 7). VPS asserts that on August 10, 2015, AMS filed a complaint in interpleader in state court seeking to interplead the sum of $80,106.18 from the sale of the property to VPS. (ECF No. 10 at 6). In response thereto, December 16, 2015, US Bank filed counter and crossclaims against the HOA and VPS for quiet title, breach of NRS 1116.1113, wrongful foreclosure, and injunctive relief. (ECF No. 10 at 6). According to VPS, th with NRCP 4(I). (ECF No. 10 at 6 7).

In response, US Bank argues that it was forced to file a separate action against VPS in light 2). US Bank contends that this court has subject matter jurisdiction and that VPS has failed to

show that abstention is warranted. (ECF No. 14 at 4). The court disagrees.

the pendency of an action in the state court is no bar to proceedings concerning the same matter in the Fede Chapman v. Deutsche Bank Trust Co., 651 F.3d 1039, 1043 (9th Cir. 2011), certified question answered sub nom. l Trust Co., 302 P.3d 1103 (Nev. 2013) (quoting Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 292 (2005)). However, [c]omity or abstention doctrines may, in various circumstances, permit or require the federal court to stay or dismiss the federal action in favor of the state-court litigation. Id. (quoting Exxon Mobil Corp., 544 U.S. at 292).

In Chapman s prior exclusive jurisdiction doctrine as follows:

in rem parallel proceedings (quasi in rem Moak Tribe of W.

Shoshone Indians, 339 F.3d 804, 810 (9th Cir. 2003)] (alterations omitted) (quoting 1245 (6th ed.1990)). Id. at 1043 44; see also United States v. One 1985 Cadillac Seville, 866 F.2d 1142, 1145 (9th Cir. 1989); accord Penn Gen. Casualty Co. v. Pennsylvania, 294 U.S. 189, 195 (1935); In re Simon, 153 F.3d 991, 996 (9th Cir. 1998); Metro. Fin. Corp. of Cal. v. Wood, 175 F.2d 209, 210 (9th Cir. 1949).

The Ninth Circuit has made clear that comity between courts; such harmony is especially compromised by state and federal judicial

systems attempting to assert concurrent control over the res upon which jurisdiction of each United States v. One 1985 Cadillac Seville, 866 F.2d 1142, 1145 (9th Cir. 1989) (citing Penn Gen. Cas. Co. v. Pennsylvania ex rel. Schnader, 294 U.S. 189, 195 (1935)).

The property at issue in the present case is the same property at issue in the Nevada state court. (Compare ECF No. 1 at 3 with ECF No. 14-2 at 3). Under Nevada law, quiet title and wrongful foreclosure are considered in rem or quasi in rem; therefore, the prior exclusive jurisdiction doctrine applies. Chapman, 302 P.3d at 1107. Any damages recovered with respect to wrongful foreclosure

claim are incidental to the central relief requested in the complaint: possession of, and title to, the property. Chapman, 651 F.3d at 1046.

jurisdiction to the ex Penn Gen. Cas. Co., 294 U.S. at 195. Jurisdiction

attaches upon the filing of the complaint. Id. at 196; Chapman, 651 F.3d at 1044 45.

AMS filed the state court action on August 10, 2015, and US Bank filed its counter and crossclaim against the HOA and VPS on December 16, 2015. Consequently, the Nevada state court first asserted jurisdiction over the proceedings in 2015 well before US Bank commenced this action in 2017. Because this court assumed jurisdiction over quiet title action after the state court exercised jurisdiction over s exercise of jurisdiction takes priority. Moreover, w without prejudice, the state court continued to exercise jurisdiction over the property because claims against the HOA and AMS are currently pending before the state court.

Further, the Colorado River abstention bars this court from asserting jurisdiction over US complaint. See Colorado River Water Conservation Dist. v. United States, 424 U.S. 800, 818 (1976). In Colorado River, the Supreme Court derived a list of factors that weighed in favor Id. Federal courts must s exercised jurisdiction over a res; (2) the inconvenience of the federal forum; (3) the desirability of avoiding piecemeal litigation; and (4) the order in which the forums 40235 Washington St. Corp. v. Lusardi, 976 F.2d 587, 588 (9th Cir. 1992) (citing Colorado River, 424 U.S. at 818). Relevant here, the Supreme Court derived the first factor from cases applying the prior exclusive jurisdiction doctrine. See Colorado River, 424 U.S. at 818.

Consistent with those principles, the Ninth Circuit has made clear that when there are ng a single property, the first Colorado River factor bars federal courts custody of the property at issue has exclusive j 40235 Washington St.

Corp., 976 F.2d at 588 89 (holding that when the first Colorado River factor is applicable, it is

Accordingly, require in rem or quasi in rem jurisdiction over the property, dismissed without prejudice. IV. Conclusion

Accordingly, IT IS HEREBY ORDERED, ADJUDGED, and DECREED that (ECF No. 10) be, and the same hereby is, GRANTED WITHOUT PREJUDICE.

be, and the same hereby is, DISMISSED WITHOUT PREJUDICE. The clerk is instructed to close the case.

DATED July 20, 2017. _____ UNITED STATES DISTRICT JUDGE