



Morgan v. Wells Fargo et al

2020 | Cited 0 times | E.D. New York | January 23, 2020

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK WILLIAM MORGAN, as beneficiary, Plaintiff,

-v- WELSS FARGO, KAMRAN GHAZVINI, Defendants.

MEMORANDUM AND ORDER

18-CV-07264 (LDH) (SIL)

LASHANN DEARCY HALL, United States District Judge:

Plaintiff William Morgan, as beneficiary, proceeding pro se, asserts various claims under federal law arising out of a real-estate mortgage and note. 1

(Compl., ECF No. 1.) Wells Fargo moves pursuant to Rule 12(b) of the Federal Rules of Civil Procedure to dismiss the complaint for lack of subject-matter jurisdiction, improper service of process, and failure to state a claim. 2

(Mot.

BACKGROUND 3 On March 20, 2007, Joseph A. Collier executed a \$485,550.00 note concerning the property located at 603 Franklin Avenue, Massapequa, NY 11758. (Aff. Jacqueline Hunter -1.) As a result of a series of transactions, Wells Fargo acquired

1 The caption of the complaint 2 Defendant Ghazvini has not moved to dismiss. 3 The following facts are taken from the complaint and the parties affidavits and, unless otherwise indicated, are assumed to be true for the purpose of this memorandum and order. the note on November 1, 2009. (Id. ¶ 5.) Collier is deceased, and Plaintiff is a beneficiary of the loan agreement. 4

(Id. ¶ 7.) In May 2010, the loan went into default. (Margarella Decl. ¶ 4, ECF No. 13-5.) On September 7, 2016, Wells Fargo commenced a foreclosure action in New York Supreme Court against the . (Id. ¶ 3.) In September 2017, after

motion for a final judgment of foreclosure and sale. (Id. ¶ 5.) In December 2018, the subject property was sold to Defendant Ghazvini. (Id. ¶ 6.)



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STANDARD OF REVIEW when the district court lacks the statutory or constitutional power to adjudicate. *Makarova v.*

United States, 201 F.3d 110, 113 (2d Cir. 2000). The plaintiff bears the burden of establishing by a preponderance of the evidence that subject-matter jurisdiction exists. *Id.* the complaint, but [the court is] not to draw inferences from the complaint favorable to

Tiraco v. N.Y. State Bd. of Elections, 963 F. Supp. 2d 184, 190 (E.D.N.Y. 2013) (quoting *J.S. ex rel. N.S. v. Attica Cent. Sch.*, 386 F.3d 107, 110 (2d Cir. 2004)). Further, resolving a motion to dismiss for lack of subject matter jurisdiction under Rule 12(b)(1), a

district court . . . *Makarova*, 201 F.3d at 113.

Where, as here, a plaintiff is proceeding pro se, his *Sykes v. Bank of Am.*, 723

4 The foreclosure complaint alleges that Collier died on April 5, 2008. ((, Ex. 1 ¶ 2, ECF No. 13-6.) F.3d 399, 403 (2d Cir. 2013) (quoting *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006)). *Boykin v. KeyCorp*, 521 F.3d 202, 213 14 (2d Cir. 2008) (quoting *Erickson v. Pardus*, 55 U.S. 89, 94 (2007) (per curiam)).

DISCUSSION Defendants argue, among other things, that the complaint must be dismissed pursuant to the Younger abstention doctrine and the Rooker-Feldman doctrine. The Court agrees in part.

Younger abstention is mandatory when: (1) there is a pending state proceeding, (2) that implicates an important state interest, and (3) the state proceeding affords the federal plaintiff an adequate opportunity for judicial review of his or her federal constitutional claims. *Spargo v. N.Y. State Comm'n on Judicial Conduct*, 351 F.3d 65, 75 (2d Cir. 2003). Here, Wells Fargo (Mem. Law Supp. Def. Wells -11.) However, it is undisputed that the state court issued a

final judgment and that the property at issue was sold at a foreclosure sale. (Margarella Decl. ¶¶ 5 6.) In other words, there is no evidence that the state proceeding is actually pending, so the Court shall not apply the Younger

Rooker Feldman doctrine are more persuasive. Under the Rooker Feldman doctrine, federal district courts lack jurisdiction over cases that essentially amount to appeals of state court judgments. *Vossbrinck v. Accredited Home Lenders, Inc.*, 773 F.3d 423, 426 (2d Cir. 2014) There are four requirements for the application of Rooker Feldman: (1) the federal-court plaintiff lost in state court; (2) the plaintiff complain[s] of injuries caused by a state court judgment; (3) the plaintiff invite[s] . . . review and rejection of that judgment; and (4) the state judgment was rendered before the district court proceedings commenced. *Id.* (quoting *Hoblock v. Albany Cty. Bd. of Elecs.*, 422 F.3d 77, 85 (2d



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Cir. 2005)).

All four requirements are met here. First, although Plaintiff was not a party to the foreclosure action, his interests were adequately represented by Defendants in that case, the executor and administrator of the Collier estate, who lost. (Margarella Decl. ¶ 5). The Second

nonparties should guide the analogous inquiry in the Rooker Feldman Hoblock v. Albany Cty. Bd. of Elections, 422 F.3d 77, 90 (2d Cir. 2005). preclusive effect on nonparties include . . . suits brought by trustees, guardians, and other Taylor v. Sturgell, 553 U.S. 880, 894 (2008) (internal citations omitted). In Chicago, Rock Island & Pacific Railway Co. v. Schendel, the Supreme Court held that a prior judgment against the beneficiary of an estate was binding, for res judicata purposes, on the strator in a subsequent action raising the same claim. 270 U.S. 611, 617 18 (1926). Building on Chicago, Rock Island, federal courts have long cited that case for the proposition that a beneficiary is similarly bound by a judgment properly maintained or defended by an executor, administrator, or trustee. Shaw Family Archives Ltd. v. CMG Worldwide, Inc., No. 05-CV-3939, 2008 WL 4127830, at *9 (S.D.N.Y. Sept. 2, 2008) (collecting cases). The same outcome is warranted here. In the caption of the complaint, Plaintiff holds himself out as a beneficiary of the estate at issue. (Compl. 1.) The foreclosure action was litigated against the executor and administrator of the estate. (Margarella Decl. ¶¶ 3 5.) Thus, the state-court judgment is binding on Plaintiff.

Second, Plaintiff alleges throughout the complaint 92, 96, 100, 104, 108, 112.) -court

judgment in the foreclosure case as evidenced by the relief he requests title to the property and an order that the foreclosure sale of the subject premises is null and void. See Vossbrinck, 773 F.3d at 427.

Third, asks this Court to rescind the mortgage and note,

premises njoin Defendants from evicting him from the property at issue. (Id. judgment. Fourth, the state court rendered its judgment on September 19, 2017, more than a year before the commencement of this action. (Margarella Decl. Ex. 2, ECF No. 13-7.) Accordingly, the Rooker Feldman complaint. See Vossbrinck, 773 F.3d at 427 (holding that claims arising out of foreclosure judgment were barred).

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CONCLUSION For the foregoing reasons, subject-matter jurisdiction is GRANTED, and the complaint is dismissed in its entirety, without prejudice, pursuant to the Rooker Feldman doctrine. 6

Plaintiff is ordered to show cause as to why the case should not be dismissed against Defendant Ghazvini within 30 days. Failure to do

5 Having dismissed the complaint pursuant to the Rooker Feldman remaining arguments. 6 pro bono



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counsel, is denied. (See Response, ECF No. 14.) so may result in the Court dismissing the action against Defendant Ghazvini for failure to prosecute. The Clerk of Court is respectfully directed to mail a copy of this order to the pro se litigants.

SO ORDERED. Dated: Brooklyn, New York /s/ LDH January 23, 2020 LASHANN DEARCY HALL

United States District Judge

