

United States Court of Appeals
For the Eighth Circuit

No. 13-3126

Frances S. Bland

Plaintiff - Appellant

v.

Deutsche Bank National Trust Company

Defendant - Appellee

Appeal from United States District Court
for the District of Minnesota - Minneapolis

Submitted: June 5, 2014

Filed: June 11, 2014

[Unpublished]

Before LOKEN, MURPHY, and SMITH, Circuit Judges.

PER CURIAM.

In this diversity action, Frances Bland challenged the foreclosure of her home in Shakopee, Minnesota, by Deutsche Bank National Trust Company (Deutsche). The

district court¹ granted Deutsche's motion to dismiss Bland's complaint with prejudice under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief could be granted. See Bland v. Deutsche Bank Nat'l Trust Co., 2013 WL 4519423 (D. Minn. Aug. 26, 2013).

Bland appeals the dismissal of her claims that (1) Deutsche failed to strictly comply with Minn. Stat. § 580.03 by publishing notice of the foreclosure in a newspaper (the Jordan Independent) that did not provide sufficient notice to the affected area, (2) Deutsche failed to strictly comply with Minn. Stat. § 580.05 because the assignment of Bland's mortgage to Deutsche was executed after Deutsche executed a power of attorney to the foreclosing law firm, although the documents were recorded contemporaneously before the foreclosure, and (3) Deutsche committed fraud or negligent misrepresentation because an unnamed Deutsche representative told Bland sometime during a six-week period that the sheriff's sale of her home would not occur when it did.

Having reviewed the dismissal de novo, taking all facts alleged in the complaint as true, and making reasonable inferences in Bland's favor, see Smithrud v. City of St. Paul, 746 F.3d 391, 397 (8th Cir. 2014), we agree with the district court that Bland's complaint did not contain sufficient factual allegations to state a facially plausible claim to relief. See Bell Atl. Corp. v. Twombly, 550 U.S. 544, 547, 555-56 (2007) (explaining Rule 12(b)(6) standard); Papasan v. Allain, 478 U.S. 265, 286 (1986) (on motion to dismiss, courts are not bound to accept as true legal conclusion couched as factual allegation). We thus affirm under 8th Cir. R. 47B.

¹The Honorable Donovan W. Frank, United States District Judge for the District of Minnesota.