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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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| HECTOR MEDINA, |) | Case No. CV 14-02298 DDP (PLAx) |
| |) | |
| Plaintiff, |) | ORDER GRANTING DEFENDANT'S MOTION |
| |) | TO DISMISS |
| v. |) | |
| |) | [Dkt. No. 7] |
| WELLS FARGO BANK, N.A., |) | |
| |) | |
| Defendant. |) | |
| |) | |
| _____ |) | |

Before the court is Defendant Wells Fargo Bank, N.A. ("Wells Fargo")'s Motion to Dismiss Plaintiff's Complaint. (Dkt. No. 7.) The motion is fully briefed and suitable for decision without oral argument. Having considered the parties' submissions, the court adopts the following order.

I. Background

On December 5, 2007, Plaintiff borrowed \$502,000 from World Savings Bank to purchase a property located at 2615-2615½ West Norwood Place, Alhambra, CA 91803.¹ The loan was memorialized in a

¹ The Complaint, portions of which appear to have been copied from another action involving a different plaintiff, states elsewhere that the property at issue is 22411 N. Bear Creek Drive
(continued...)

1 signed note and secured by a signed deed of trust. (See Complaint
2 ¶¶ 3, 8; Wells Fargo's Request for Judicial Notice, Exs. F & G.)
3 World Savings was renamed Wachovia Mortgage, FSB on December 31,
4 2007 and later merged with Defendant Wells Fargo. (See RJN Exs. B,
5 D.)

6 It appears Plaintiff began to have difficulties making
7 payments on the loan as of August 15, 2009. (See RJN Ex. I at 2.)
8 On January 16, 2012, Plaintiff received a Notice of Trustee Sale
9 from Well's Fargo for a sale to take place February 16, 2012. (See
10 Compl. ¶ 9.) A subsequent Notice of Trustee's Sale was recorded by
11 Wells Fargo on January 8, 2014, setting a sale on January 30, 2014.
12 (RJN Ex. J.)

13 On February 13, 2014, Plaintiff filed the instant action to
14 quiet title under California Code of Civil Procedure § 760.020 in
15 Los Angeles County Superior Court. Referring to the sale set for
16 February 16, 2012, Plaintiff seeks a declaration of the court
17 stating that neither Wells Fargo nor Regional Trustee Service
18 Corporation have a right to bring the trustee sale; injunctive
19 relief staying the trustee sale; and a declaration of quiet title
20 and a determination of Plaintiff's title against the adverse
21 interest of Wachovia Mortgage, a division of Wells Fargo, or
22 Regional Trustee Service Corporation. (See FAC ¶¶ 9-22.)

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26 ¹(...continued)
27 North, Murrieta, CA 92652. (Compl. ¶ 20.) However, a review of the
28 record confirms that the property actually at issue is located at
2615-2615½ West Norwood Place, Alhambra, CA 91803. (See RNJ Exs. F
& G.)

1 Wells Fargo removed the action to this court on March 25,
2 2014. (Dkt. No. 1.) On April 1, 2014, it filed the instant Motion
3 to Dismiss. (Dkt. No. 7.)
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6 **II. Legal Standard**

7 A complaint will survive a motion to dismiss when it
8 "contain[s] sufficient factual matter, accepted as true, to state a
9 claim to relief that is plausible on its face." Ashcroft v. Iqbal,
10 129 S. Ct. 1937, 1949 (2009) (quoting Bell Atl. Corp. v. Twombly,
11 550 U.S. 544, 570 (2007)). When considering a Rule 12(b)(6)
12 motion, a court must "accept as true all allegations of material
13 fact and must construe those facts in the light most favorable to
14 the plaintiff." Resnick v. Hayes, 213 F.3d 443, 447 (9th Cir.
15 2000). Although a complaint need not include "detailed factual
16 allegations," it must offer "more than an unadorned,
17 the-defendant-unlawfully-harmed-me accusation." Iqbal, 129 S. Ct.
18 at 1949. Conclusory allegations or allegations that are no more
19 than a statement of a legal conclusion "are not entitled to the
20 assumption of truth." Id. at 1950. In other words, a pleading that
21 merely offers "labels and conclusions," a "formulaic recitation of
22 the elements," or "naked assertions" will not be sufficient to
23 state a claim upon which relief can be granted. Id. at 1949
24 (citations and internal quotation marks omitted).

25 "When there are well-pleaded factual allegations, a court should
26 assume their veracity and then determine whether they plausibly
27 give rise to an entitlement of relief." Id. at 1950. Plaintiffs
28 must allege "plausible grounds to infer" that their claims rise

1 "above the speculative level." Twombly, 550 U.S. at 555-56.
2 "Determining whether a complaint states a plausible claim for
3 relief" is "a context-specific task that requires the reviewing
4 court to draw on its judicial experience and common sense." Iqbal,
5 129 S. Ct. at 1950.

6

7 **III. Discussion**

8 Wells Fargo initially contends that Plaintiff's claims are
9 preempted by the Home Owners Loan Act of 1933, 12 U.S.C. § 1461 et
10 seq ("HOLA"), and regulations promulgated pursuant thereto by the
11 Treasury Department's Office of Thrift Supervision ("OTS"), 12
12 C.F.R. § 560.2. (See Motion at 5.) While most courts have held that
13 quiet title and wrongful foreclosure actions involving similar
14 facts are preempted under HOLA, there is some split in authority on
15 this issue. See, e.g., Terrazas v. Wells Fargo Bank, N.A., 2013 WL
16 5774120, at *7 (S.D. Cal. Oct. 24, 2013) (Plaintiff's quiet title
17 action based on contention that Wells Fargo is not the true owner
18 of deed of trust signed with World Savings Bank "is clearly within
19 the bounds of HOLA" preemption.); Winding v. Cal-W. Reconveyance
20 Corp., 2011 WL 221321, at *13 (E.D. Cal. Jan. 24, 2011) (same). But
21 see Cheung v. Wells Fargo Bank, N.A., 2013 WL 6017497, at *1 (N.D.
22 Cal. Sept. 25, 2013) (holding that wrongful foreclosure claim
23 asserting that Wells Fargo was not beneficiary of mortgage with
24 World Savings Bank is not preempted under HOLA). However, the court
25 need not resolve the preemption question in the instant case
26 because Plaintiff's claim plainly fails on the merits.

27 The only basis for relief asserted in this action to quiet
28 title is that the power of sale in the deed of trust, signed

1 originally with World Savings Bank, did not pass through to Wells
2 Fargo (or its agent-designee Regional Trustee Service Corporation)
3 because the latter were never validly assigned the deed of trust.
4 (See Compl. ¶¶ 14-15.) However, Wells Fargo did not obtain or claim
5 to obtain power of sale by dint of an assignment, but rather became
6 World Savings' successor-in-interest via a merger. Judicially
7 noticeable documents submitted by Wells Fargo establish that World
8 Savings Bank, FSB, simply changed its name to Wachovia Mortgage,
9 FSB, which then merged with Wells Fargo Bank. (See RJN Exs. B, D.)
10 Because Wells Fargo obtained World Savings' interests through that
11 merger, no assignment of interest was necessary. See, e.g., Hale v.
12 World Sav. Bank, 2012 WL 4675561, at *5 (E.D. Cal. Oct. 1, 2012).
13 ("Wells Fargo is the successor-in-interest to Wachovia, which was
14 the successor-in-interest to World Savings. It was thus unnecessary
15 to assign the Deed of Trust to Wells Fargo since the original
16 lender, World Savings, simply changed its name to Wachovia and then
17 merged into Wells Fargo."); Ngoc Nguyen v. Wells Fargo Bank, N.A.,
18 749 F. Supp. 2d 1022, 1035 (N.D. Cal. 2010) (same). Plaintiff's
19 Complaint therefore lacks merit.

20 In view of this conclusion, the court does not reach Wells
21 Fargo's other arguments in support of the instant Motion.

22 Because the sole basis for relief is plainly meritless, the
23 court finds that leave to amend would be futile and dismissal with
24 prejudice is therefore warranted. Plaintiff asserts in his
25 Opposition that if granted leave to amend, he would allege that:

26 (1) the assignment of [Plaintiff's] loan into the WAMU Trust
27 is improper because it was not assigned before the end of 2008
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1 as required by the Trust Agreement, and (2) the October 2010
2 assignments are improper because the person purporting to sign
3 the assignment lacked the authority to execute the
4 assignments.

5 (Opposition at 8-9.) These contentions appear to have been copied
6 from a different case involving a different borrower and lender:
7 the loan here involved World Savings Bank, not WAMU; originated in
8 2005, not 2008; and no party has asserted that any assignment took
9 place in "October 2010." In any case, the proposed amendments do
10 not address the above-described defect that is fatal to Plaintiff's
11 claim: that no assignment was necessary. Lacking any basis to
12 conclude that Plaintiff could cure the Complaint's defects with an
13 amended filing, the court will dismiss the action with prejudice.

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15 **IV. Conclusion**

16 For the reasons stated herein, Defendant Wells Fargo's Motion
17 to Dismiss is GRANTED with prejudice.

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19 IT IS SO ORDERED.

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21 Dated: May 14, 2014

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DEAN D. PREGERSON
United States District Judge

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