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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARILYN POSTLEWAITE and PAMELA
POSTLEWAITE,

Plaintiffs,

vs.

WELLS FARGO BANK N.A. *et al.*,

Defendant(s).

Case No.: 12-CV-04465 YGR

ORDER GRANTING MOTION OF DEFENDANT
TO DISMISS COMPLAINT WITH LEAVE TO
AMEND

United States District Court
Northern District of California

Plaintiffs Pamela and Marilyn Postlewaite bring this foreclosure related action against Wells Fargo Bank, N.A. (“Wells Fargo”), alleging that prior to a foreclosure sale, the parties entered into an agreement whereby Wells Fargo would reinstate a loan and continue the Trustee’s Sale but Wells Fargo breached that agreement when, without warning, it sold the property. Plaintiffs’ Complaint alleges four causes of action: (1) to Set Aside a Trustee’s Sale; (2) Cancel a Trustee’s Sale; (3) Quiet Title; and (4) for an Accounting.


Wells Fargo has filed a Motion to Dismiss on the grounds that Plaintiffs do not have standing to sue upon a mortgage loan taken out by their mother/grandmother. In Plaintiffs’ opposition, they do not argue that the facts alleged in the Complaint establish they have standing, but instead argue that the additional facts provided in their opposition and the fifty pages of documents of which they have requested judicial notice establish that they have standing. They further ask for leave to file an amended complaint.

Having carefully considered the papers submitted and the Complaint the Court hereby **GRANTS** the Motion to Dismiss **WITH LEAVE TO AMEND** to allege standing, if such facts exist.

Plaintiffs may file an amended complaint within 21 days of the date of this Order.

IT IS SO ORDERED.

Date: February 13, 2013


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE