

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GINA M. GRAY; DAVID A. ZAMORA; and)	Case No.: 13-CV-03692-LHK
PRINCE SONG CAMBILARGIU)	
)	
Plaintiffs,)	ORDER DENYING APPLICATION FOR
)	PRELIMINARY INJUNCTION
v.)	
)	
LA SALLE BANK NA, et al.,)	
)	
Defendants.)	

Plaintiffs Gina M. Gray, David A. Zamora, and Prince Song Cambilargiu (collectively, “Plaintiffs”), appearing pro se, seek a preliminary injunction to enjoin Defendants Ling Jin and Yu Pan from pursuing an unlawful detainer action against Plaintiffs in state court. Plaintiffs request the injunction be issued ex parte. The Court DENIES Plaintiffs’ motion for the reasons discussed below.

I. BACKGROUND

On August 8, 2013, Plaintiffs filed a complaint listing as defendants: “La Salle Bank NA as Trustee for WAMU 2006-AR19; Quality Loan Service Corp.; JPMorgan Chase Bank, National Association; California Reconveyance Company; Ling Jin; Yu Pan; Santa Clara County Clerk and

1 Recorder; Regina Alcomendras; Jules Ordinario; and All Persons or Entities Claiming Any Legal
2 or Equitable Right, Title, Estate, Lien or Interest in the Property Described in this Complaint
3 Adverse to Plaintiff’s Title or Any Cloud Upon Title Thereto; and Does 1-10.” (collectively,
4 “Defendants”). ECF No. 1. Summons were issued for each of the Defendants and were returned
5 executed. ECF Nos. 3, 10-17. There is no certificate of service for the Complaint.

6 On August 23, 2013, Plaintiffs filed this Motion for Preliminary Injunction, which Plaintiffs
7 alternatively title an Ex Parte Emergency Preliminary Injunction. ECF Nos. 7 (Mot. Prelim. Inj.), 8
8 (Mem. Pts. & Auth.). On the same day, Plaintiffs also filed a “Certificate of Service” in which
9 Plaintiffs state that Plaintiffs mailed to Defendants a copy of the Ex Parte Emergency Motion, a
10 copy of the Memorandum of Points and Authorities, and a copy of the Certificate of Service. ECF
11 No. 9. None of the Defendants have yet appeared in the case. On August 27, 2013, the case was
12 reassigned from the Honorable Howard R. Lloyd to the undersigned judge. ECF No. 18.

13 The preliminary injunction motion asserts that JPMorgan Chase Bank, N.A. (“Chase”) was
14 an improper party to foreclosure on Plaintiffs’ property. Mem. Pts. & Auth. ¶ 25. Following the
15 allegedly wrongful foreclosure, Chase purportedly sold Plaintiffs’ property to Defendants Ling Jin
16 and Yu Pan. Compl. ¶ 118. Plaintiffs assert that Defendants Ling Jin and Yu Pan have initiated
17 unlawful detainer proceedings against Plaintiffs in state court. Mem. Pts. & Auth. ¶ 31.

18 **II. LEGAL STANDARDS**

19 “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on
20 the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the
21 balance of equities tips in his favor, and that an injunction is in the public interest.” Winter v.
22 Natural Res. Def. Council, Inc., 555 U.S. 7, 20 (2008). The party seeking the injunction bears the
23 burden of proving these elements. Klein v. City of San Clemente, 584 F.3d 1196, 1201 (9th Cir.
24 2009). The issuance of a preliminary injunction is at the discretion of the district court. Indep.
25 Living Ctr. v. Maxwell–Jolly, 572 F.3d 644, 651 (9th Cir. 2009). The standard for issuing a
26 temporary restraining order is identical to the standard for issuing a preliminary injunction. Brown
27 *Jordan Int’l, Inc. v. Mind’s Eye Interiors, Inc.*, 236 F. Supp. 2d 1152, 1154 (D. Haw. 2002);
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1 Lockheed Missile & Space Co., Inc. v. Hughes Aircraft Co., 887 F. Supp. 1320, 1323 (N.D.
2 Cal.1995).

3 Federal Rule of Civil Procedure 65(a)(1) states that a court may issue a preliminary
4 injunction “only on notice to the adverse party.” Rule 65(b)(2) provides that a court may issue a
5 temporary restraining order without notice to the opposing party only if: “(A) specific facts in an
6 affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or
7 damage will result to the movant before the adverse party can be heard in opposition; and (B) the
8 movant’s attorney certifies in writing any efforts made to give notice and the reasons why it should
9 not be required.” Additionally, Civil Local Rule 65–1(b) states that, unless relieved by the Court
10 for good cause shown, “on or before the day of an ex parte motion for a temporary restraining
11 order, counsel applying for the temporary restraining order must deliver notice of such motion to
12 opposing counsel or party.”

13 **III. DISCUSSION**

14 The only relief requested in Plaintiffs’ Motion is an injunction against Defendants Ling Jin
15 and Yu Pan from continuing to pursue the unlawful detainer action in state court. Mot. Prelim. Inj.
16 at 11-12. However, numerous district courts have found that the Anti-Injunction Act, 28 U.S.C. §
17 2283, prohibits a federal district court from issuing an injunction staying unlawful detainer
18 proceedings in state court. See Scherbenske v. Wachovia Mortgage, FSB, 626 F. Supp. 2d 1052,
19 1059 (E.D. Cal. 2009) (holding that unlawful detainer actions did not fit within any of the three
20 exceptions to the Anti-Injunction Act); Michener v. Wells Fargo Home Mortgage, C 12-2003 PJH,
21 2012 WL 3027538, at *4 (N.D. Cal. July 24, 2012) (same).

22 The Anti-Injunction Act “is an absolute prohibition against enjoining state court
23 proceedings, unless the injunction falls within one of three specifically defined exceptions.” *Atl.*
24 *Coast Line R.R. Co. v. Bhd of Locomotive Eng’rs*, 398 U.S. 281, 286 (1970) (analyzing the three
25 exceptions enumerated in 28 U.S.C. § 2283). These three exceptions are to be construed narrowly.
26 See *Lou v. Belzberg*, 834 F.2d 730, 739 (9th Cir. 1987); see also *Montana v. BNSF Ry. Co.*, 623
27 F.3d 1312, 1315 (9th Cir. 2010) (“[D]oubts as to the propriety of a federal injunction against state
28 court proceedings should be resolved in favor of permitting the state courts to proceed.”) (internal

1 quotations omitted). “The statute is interpreted broadly and includes injunctions directed at the
2 parties rather than the state court itself.” Scherbenske, 626 F. Supp. 2d at 1058 (citing Atlantic
3 C.L.R. Co., 391 U.S. at 287).

4 Of the three exceptions to the Anti-Injunction Act, two are inapplicable to Plaintiffs’
5 injunction request. First, an exception is recognized when expressly authorized by Act of
6 Congress. 28 U.S.C. § 2283. In the instant case, “[t]here is no federal statute authorizing a district
7 court to enjoin a state unlawful detainer action.” See Carrasco v. HSBC Bank USA, N.A., 2012 WL
8 646251, at *3 (N.D. Cal. Feb.28, 2012) (citations omitted). Second, an exception is recognized “to
9 protect or effectuate [the Court’s] judgment.” 28 U.S.C. § 2283. In the instant case, there is no
10 court judgment to protect or effectuate.

11 The remaining exception applies when an injunction is “necessary in aid of [the Court’s]
12 jurisdiction.” 28 U.S.C. § 2283. This “necessary-in-aid-of-jurisdiction” exception is generally
13 applied to in rem proceedings where subsequent state court proceedings might interfere with
14 previously filed federal court jurisdiction over a res, in cases of advanced federal in personam
15 litigation, or where a case is removed from state court. See Negrete v. Allianz Life Ins. Co. of N.
16 Am., 523 F.3d 1091, 1101, 1102 (9th Cir. 2008) (citing Vendo Co. v. Lektro-Vend Corp., 433 U.S.
17 623, 641-42 (1977)); Fajardo v. Ross, No. 1:12-cv-00217-AWI-DLB, 2012 WL 2589244, at *3
18 (E.D. Cal. July 3, 2012). Courts have found, however, that filing only a complaint in federal court
19 and then seeking an injunction to stay an unlawful detainer action previously filed in state court
20 does not invoke the “necessary-in-aid-of-jurisdiction” exception. See Scherbenske, 626 F. Supp.
21 2d at 1059 (noting that the court was “aware of no authority to interpret this exception to include
22 the filing of a complaint by a plaintiff” and holding therefore that the “necessary-in-aid-of-
23 jurisdiction” exception did not apply); Michener, 2012 WL 3027538 *4 (“A party to an action in
24 state court litigating possession of real property or the right to tenancy does not implicate this
25 exception simply by filing, as here, an action purporting to litigate title to said property in federal
26 court.”) (citation omitted). The Court thus finds that the “necessary-in-aid-of-jurisdiction”
27 exception is inapplicable in the instant case, in which Plaintiffs have filed only a complaint before
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1 seeking to enjoin Defendants Ling Jin and Yu Pan from pursuing a previously filed state court
2 unlawful detainer action.

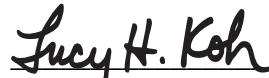
3 Absent an applicable exception, the Court finds that the Anti-Injunction Act bars Plaintiffs'
4 requested relief, and Plaintiffs' Motion is DENIED.

5 **IV. CONCLUSION**

6 The Court has found that it lacks authority to grant the requested relief. Thus, the Court
7 DENIES Plaintiffs' request for a preliminary injunction to enjoin Defendants Ling Jin and Yu Pan
8 from pursuing the state court unlawful detainer proceeding.

9 **IT IS SO ORDERED.**

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11 Dated: August 30, 2013



LUCY H. KOH
United States District Judge