

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

BRENDALYNNE DUNCAN, et al.,

Plaintiffs,

v.

CITIMORTGAGE, INC., et al.,

Defendants.

---

CIVIL ACTION FILE  
NO. 1:13-CV-1493-TWT

**ORDER**

This is an action for wrongful foreclosure. It is before the Court on the Report and Recommendation [Doc. 17] of the Magistrate Judge recommending granting the Defendants' Motions to Dismiss [Doc. 3 & 6]. The Plaintiffs' Objection that the Magistrate Judge applied the wrong pleading standard is totally without merit. A complaint should be dismissed under Rule 12(b)(6) only where it appears that the facts alleged fail to state a "plausible" claim for relief. Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009); Fed. R. Civ. P. 12(b)(6). A complaint may survive a motion to dismiss for failure to state a claim, however, even if it is "improbable" that a plaintiff would be able to prove those facts; even if the possibility of recovery is extremely "remote and unlikely." Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 556 (2007) (citations

and quotations omitted). In ruling on a motion to dismiss, the court must accept factual allegations as true and construe them in the light most favorable to the plaintiff. See Quality Foods de Centro America, S.A. v. Latin American Agribusiness Dev. Corp., S.A., 711 F.2d 989, 994-95 (11th Cir. 1983); see also Sanjuan v. American Bd. of Psychiatry and Neurology, Inc., 40 F.3d 247, 251 (7th Cir. 1994) (noting that at the pleading stage, the plaintiff “receives the benefit of imagination”). The Plaintiffs fail to allege facts showing a plausible claim for relief. The Court approves and adopts the Report and Recommendation as the judgment of the Court. The Defendants’ Motions to Dismiss [Doc. 3 & 6] are GRANTED.

SO ORDERED, this 15 day of January, 2014.

/s/Thomas W. Thrash  
THOMAS W. THRASH, JR.  
United States District Judge