

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF HAWAII

MILLICENT M. ANDRADE,)	CIVIL NO. 13-00255 LEK-KSC
)	
Plaintiff,)	
)	
vs.)	
)	
US BANK NATIONAL ASSOCIATION,)	
as Trustee for the Structured)	
Asset Investment Loan Trust,)	
2005-HE3,)	
)	
Defendant.)	
_____)	

**ORDER DISMISSING PLAINTIFF'S CLAIM UNDER
HAW. REV. STAT. § 669-1 WITH PREJUDICE**

On April 25, 2013, pro se Plaintiff Millicent Andrade ("Plaintiff") filed her Complaint against Defendant US National Bank Association, as Trustee for the Structured Asset Loan Trust 2005-HE3 ("Defendant" or "US Bank") in state court. [Notice of Removal (dkt. no. 1), Exh. A.] On May 20, 2013, Defendant removed the instant action to this district court. [Id.] On August 27, 2013, this Court issued an order dismissing Plaintiff's claims for: (1) wrongful foreclosure ("Count I"); and (2) quiet title ("Count II") ("the 8/27/13 Order"). [Dkt. no. 18.¹] Count I was dismissed with prejudice. Count II was dismissed with prejudice as to Plaintiff's claim under Haw. Const. art. XVI § 12, and dismissed without prejudice as to Plaintiff's claim pursuant to Haw. Rev. Stat. § 669-1. 8/27/13

¹ The 8/27/13 Order is also available at 2013 WL 4552186.

Order, 2013 WL 4552186, at *14. The Court granted Plaintiff until September 16, 2013 to file a motion to the magistrate judge seeking permission for leave to file an amended complaint. The Court also cautioned Plaintiff that, if she failed to do so in a timely manner, "the claims which this Court dismissed without prejudice [would] automatically be dismissed with prejudice."

Id.

On September 16, 2013, Plaintiff filed her Motion to Reconsider Order Dismissing Claims with Prejudice and Motion for Leave to Amend Complaint ("Motion"). [Dkt. no. 19.] This Court issued an entering order referring the portion of the Motion regarding Plaintiff's motion to amend complaint to the magistrate judge for disposition. [EO: Regarding Plaintiff's Motion to Reconsider Order Dismissing Claims with Prejudice and Motion for Leave to Amend Complaint, filed 9/17/13 (dkt. no. 20).] On September 17, 2013, the magistrate judge issued an entering order denying Plaintiff's Motion to the extent that it sought leave to amend. [EO, filed 9/17/13 (dkt. no. 21).] The magistrate judge found that, insofar as the Motion also sought reconsideration, the Motion's request for leave to amend was premature, and that the Motion failed to comply with Local Rule 10.3. The magistrate judge's entering order provides:

Plaintiff may file a motion for leave to amend complaint within one week after the disposition of the [Motion]. However, any request for amendment must be consistent with all orders issued in this

case Failure to comply with these requirements may result in the denial of the request for leave to amend.

[Id.]

On October 28, 2013, this Court issued an order denying the Motion to the extent that it sought reconsideration of the 8/27/13 Order. [Dkt. no. 24.] Plaintiff did not file a subsequent motion for leave to amend the complaint. The Court therefore DISMISSES the remaining portion of Count II, Plaintiff's claim under Haw. Rev. Stat. § 669-1, WITH PREJUDICE.

Insofar as there are no claims remaining in this case, this Court DIRECTS the Clerk's Office to enter judgment and close the case.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAII, December 4, 2013.



/s/ Leslie E. Kobayashi
Leslie E. Kobayashi
United States District Judge

MILLICENT ANDRADE VS. US NATIONAL BANK ASSOCIATION, ETC.; CIVIL 13-00255 LEK-KSC; ORDER DISMISSING PLAINTIFF'S CLAIM UNDER HAW. REV. STAT. § 669-1 WITH PREJUDICE