

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

DENISE AND KENNETH COOK,

Plaintiffs,

Civ. No. 10-3121-PA

**TEMPORARY RESTRAINING ORDER**

v.

BENEFICIAL HSBC MORT. CORP.,

Defendants.

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**PANNER, J.**

On January 25, 2011, I issued a temporary restraining order (#7) restraining defendant from conducting a foreclosure sale. At that time, I believed defendant had yet to conduct the sale. Following my order, I learned defendant has already conducted the foreclosure sale and is, in accordance with that sale, in the process of evicting plaintiff. On November 4, 2010, plaintiffs filed the complaint and moved for a preliminary injunction. Plaintiffs currently have a pending motion for an entry of default. That plaintiffs received my temporary restraining order too late to prevent the foreclosure sale is not due to any fault of plaintiffs.

The circumstances involved are unusual. Although defendant already conducted a foreclosure sale, plaintiffs allege defendant has not complied with the legal requirements for a valid foreclosure. Additionally, plaintiffs remain in the home at this time. To be evicted following an improper foreclosure would irreparably injury plaintiffs. The balance of hardships involved greatly favors granting a temporary restraining order.

Because of the alleged imminent eviction following an alleged improper foreclosure sale, I grant plaintiffs' request for a temporary restraining order. The foreclosure sale is set aside. Defendant, and its officers, agents, etc..., and other persons in active concert or participation with defendant, who receive actual notice of this order, are restrained from evicting plaintiffs from the following property: 300 Newt Gulch Road, Wilderville, Oregon, 97543 from this day until Monday, February 7, 2011, at 5:00 p.m. This court will hold a hearing on whether to issue a preliminary injunction on February 7, 2011, at 2:00 p.m., in Medford.

IT IS SO ORDERED.

DATED this 25 day of January, 2011.



OWEN M. PANNER  
U.S. DISTRICT JUDGE