

IN THE UNITED STATES COURT
FOR THE DISTRICT OF PUERTO RICO

CITIMORTGAGE, INC.,

Plaintiff,

v.

CIV. NO.: 11-1915(SCC)

MIGUEL A. CARRILLO-
BAEGRA, ET AL.,

Defendant.

MEMORANDUM AND ORDER

Plaintiff CitiMortgage, Inc., filed this foreclosure action in September 2011. Plaintiffs have at all times represented themselves *pro se*. At a settlement conference in March 2013, the parties informed the Court that they had reached a settlement in principle, and they were given 45 days to file a stipulation of dismissal. *See* Docket No. 58. When no stipulation was filed, I ordered the parties to explain the case's status. *See* Docket No. 66. In September 2013, CitiMortgage informed the

Court that a decision was still pending on the modification. *See* Docket No. 68. The Court granted a brief extension of time, *see* Docket No. 69, after which CitiMortgage asserted that the decision was still pending because Defendants had failed to timely turn over the correct paperwork, *see* Docket No. 70.¹

On February 7, 2014, Defendants filed a “joint motion” in which they said that they were unable to get any help from CitiMortgage’s Loss and Mitigation Department and so were proposing a *dación en pago*, whereby they would cede possession of the property to CitiMortgage for a discharge of their debt. *See* Docket No. 72. Though the motion was called a “joint motion,” it was not clear whether CitiMortgage had actually agreed to the *dación en pago*. For that reason, I ordered CitiMortgage to respond to the motion by February 19, 2014. Docket No. 75.

CitiMortgage failed to comply with that Order, and so on March 24, 2014, I ordered it to show cause for its failure to comply with the Court’s order and to state whether a settlement had been reached. Docket No. 76. CitiMortgage failed to comply with this order as well, and a second show-cause order

1. Defendants disputed this characterization, writing that CitiMortgage had sprung new paperwork requirements on them. Docket No. 71.

was entered on April 1, 2014. Docket No. 77. That Order warned that a failure to respond or to “fully justify” its non-compliance would result in sanctions, including dismissal of CitiMortgage’s case with prejudice. *Id.* CitiMortgage responded to the second show-cause order, but its excuses for its previous failures were weak. Docket No. 79.² As to the possibility of settlement, the motion said that Defendants would need to submit yet further documentation to CitiMortgage to apply for *dación en pago*.

Two months later, Defendants filed a motion requesting information regarding the status of their case. In the motion, Defendants stated that 90 days had elapsed since they re-

2. Originally, Atty. Jeannine M. Carlo-Meléndez was making filings on CitiMortgage’s behalf. After the show cause orders were issued, however, a new attorney for CitiMortgage, Myra M. Vélez-Plumey, appeared in the case and filed CitiMortgage’s show cause response. Her response blamed CitiMortgage’s failure on the fact that the case had only been recently reassigned to her, combined with the fact that, because of her large workload, she had neglected to file a notice of appearance, and so she missed the Court’s show cause orders. *See* Docket No. 79, at 1–2. These excuses do not excuse CitiMortgage’s repeated failure to comply with the Court’s orders, *see, e.g., Collins v. Burg*, 169 F.3d 563, 565 (8th Cir. 1999) (rejecting similar arguments), especially given that Atty. Carlo remained (and remains) in the case. More to the point, it does not excuse CitiMortgage’s subsequent and continued failures to respond after Atty. Vélez appeared.

requested *dación en pago*—30 days since they submitted the requested paperwork—and CitiMortgage had not given them any response. Docket No. 82. When CitiMortgage did not respond to this motion, I ordered it to reply by June 30, 2014, and to inform the court whether the *dación en pago* had been approved. Docket No. 87. CitiMortgage failed to comply with the Court’s order, and on August 13, 2014, Defendants filed yet another motion stating that though it had been more than 120 days since they filed the paperwork, they had heard nothing from CitiMortgage. CitiMortgage has failed to respond to this motion as well.

CitiMortgage has repeatedly failed to comply with this Court’s orders, and it has done so despite being put on notice that further failures would result in this case’s dismissal. This case has been pending for three years, and yet CitiMortgage continues to drag its feet. Because of CitiMortgage’s disregard for this Court’s orders, as well as its failure to prosecute, this case is hereby DISMISSED WITH PREJUDICE.

The Clerk shall also take notice of Defendants’ change of address, as requested in Docket No. 88.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 29th day of August, 2014.

S/ SILVIA CARREÑO-COLL

UNITED STATES MAGISTRATE JUDGE