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Complaint, Polk v. Liberty Home Equity Solutions, Inc., Docket No. 2014-CH-15832 (Illinois Circuit Court, Cook County 2014)

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Authority, that was issued by Liberty without the requisite independent, third-party counseling as required by the United States Department of Housing and Urban Development. Polk seeks to have the loan declared null and void and of no legal force and effect because of the lack of independent counseling by a HUD certified reverse mortgage counselor, damages.

Factual Statement

2. Polk is an 86-year-old woman who has resided continuously for 47 years at 5217 West Gladys Avenue (hereinafter "Property") in the South Austin neighborhood of the City of Chicago in Cook County. Polk paid off a 30-year purchase mortgage loan in 1997.
3. Polk's case was brought to the attention of The John Marshall Law School Chicago Pro Bono Program and Clinic in August by concerned neighbors and HUD-approved housing counselors who learned of pending eviction action against Polk.
4. Polk was sold a reverse mortgage in or about October of the year 2009 based on the claim the loan would provide financing of repairs to the Property.
5. The sale of the loan by a loan broker followed a well-established predatory loan scheme used by notorious Chicago mortgage brokers and operatives whereby elderly homeowners are lured into taking out a variety of loan instruments to supposedly finance repairs to their property. As part of the scheme the proposed repair work is then either never done or done in a shoddy manner.

6. Under the scheme the loan broker keeps most of the loan proceeds and only a small portion is provided for the homeowner. In Polk's case the financial instrument was a reverse mortgage.
7. The work performed on the Polk Property by selected people was grossly overpriced, poorly done and incomplete. Polk received no cash disbursements from the loan herself. All proceeds of the loan were signed over to the mortgage broker.
8. Polk's reverse mortgage loan was made by Genworth Financial Home Equity Access, Inc. (formerly known as Liberty Reverse Mortgage, Inc. and later known as Liberty Home Equity Solutions, Inc.)
9. The loan was a Federal Housing Authority (FHA) insured Home Equity Conversion Mortgage (HECM).
10. Polk did not receive the independent, pre-closing counseling by a HUD-certified reverse mortgage counseling agency as required by HECM regulations (24 CFR 214.313).
11. Polk did not adequately understand the complexities of this type of mortgage loan before she entered into it.
12. The loan closing took place at the Polk Property, not in a bank or office setting.
13. Liberty (then known as Genworth Financial Home Equity Access, Inc.) initiated a foreclosure action on September 13, 2012 on the sole basis of failure to maintain hazard insurance on the property.

14. An Order Approving Report of Sale and Distribution, confirming sale of the premises, and Order of Possession was entered against Polk on or about August 21, 2013.
15. The order constitutes a final judgment in a mortgage foreclosure action.
16. This loss of her home on or about August 21, 2013, is the injury suffered by Polk.

Cause of Action: Consumer Fraud Act

17. Polk brings this Count as an action for injunctive relief, declaratory relief, damages, and other relief for Liberty's violation of the Illinois Consumer Fraud and Deceptive Practices Act, 815 ILCS 505/1 et seq., ("Consumer Fraud Act").
18. At all pertinent times herein Liberty engaged in trade or commerce within the meaning of the Consumer Fraud Act, and Polk was a consumer within the Act's coverage
19. Liberty's actions, as set out above, constitute unfair acts and practices within the meaning of and in violation of 815 ILCS §505/2 of the Consumer Fraud Act in that:
 - a. Liberty's failure to determine whether Polk had received and Liberty's failure to provide for Polk to receive the independent counseling required by HUD regulations related to HECM reverse mortgage loans prior to loan closing was a deceptive act in that it deprived Polk full understanding of the nature of the reverse mortgage loan and other alternative sources of financing.

- b. It was Liberty's intent that Polk rely on the deceptive act described in sub-paragraph 21(a) above.
- c. Liberty's deceptive acts occurred in the course of conduct involving trade or commerce.
- d. Liberty's deceptive acts described in sub-paragraphs 21(a) above were the proximate cause of Polk's injury, the loss of her home, in a foreclosure action on or about the 21st Day of August 2013.

20. Liberty's acts, as set out in sub-paragraphs 21(a) above, were willful and deliberate.

WHEREFORE, Alice Mae Polk, prays that this Court:

- A. Enter an order declaring that the actions of the Liberty as set out above, constitute unfair acts or practices under the Consumer Fraud Act;
- B. Enter an order declaring the reverse mortgage issued by Liberty null and void and of no legal force and effect;
- C. Enter an order providing Preliminary Injunction and Permanent Injunction judgment in favor of Polk and against Liberty to stay the eviction order of the confirmation of judicial sale of the Property until further order of the court;
- D. Award for Polk and against Liberty compensatory damages equal to the market value of the Property as of the date of the confirmation of judicial sale of the Property; and
- E. For such other and further relief as this Court deems equitable and just.

Respectfully submitted,

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