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Complaint, Gregorio et al v. Khan et al, Docket No.
1:15-cv-02867 (N.D. Ill. Apr 01, 2015)

John Marshall Law School Fair Housing Legal Clinic

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MARTHA GREGORIO, individually, and)
as guardian and next friend of)
J.M., Y.M., and J.M., and)
JESUS SANTIAGO, individually)
)
Plaintiffs,)
)
v.)
)
AKBAR KHAN and NOVA PROPERTY)
MANAGEMENT)
)
Defendants.)

Case No. 1:15 CV 02867

JURY DEMANDED

COMPLAINT

NOW COMES, the Plaintiffs, MARTHA GREGORIO, JM, YM, JM and JESUS SANTIAGO (“the Gregorios”), by and through their attorneys and the Senior Law Students of The John Marshall Law School Fair Housing Legal Clinic, propound the following CLAIMS against Defendants, NOVA PROPERTY MANAGEMENT, INC. and AKBAR KHAN (collectively, “Defendants”), in this action, and states the following:

JURISDICTION AND VENUE

1. This Court has original jurisdiction over Plaintiffs’ federal claims arising from The Fair Housing Act, 42 U.S.C. § 3601, *et seq.*, 42 U.S.C. § 3613(a)(1)(A) and 28 U.S.C. § 1331.
2. This Court may exercise supplemental jurisdiction over the State of Illinois, Cook County, and Village of Skokie claims pursuant to 28 U.S.C. § 1367, as all municipal, county, state and federal claims are so related that they form part of the same case or controversy under Article III of the United States Constitution.

3. Supplemental jurisdiction is applicable over Plaintiff's state, county, and municipal claims because the claims do not raise a novel or complex issue of State law, the claims do not substantially predominate over the claim or claims over which the district court has original jurisdiction, the district court has not dismissed all claims over which it has original jurisdiction, and, there are no other compelling reasons for declining jurisdiction.

4. Venue is proper in the United States District Court for the Northern District of Illinois, Eastern Division, as all Plaintiffs and Defendants reside, operate, and are located within the boundaries thereof.

PROCEDURAL HISTORY

5. On December 5, 2014, Defendants filed a Forcible Entry and Detainer action in the Circuit Court of Cook County, Illinois, Second Municipal District, against Plaintiffs. (**Exhibit H**)

6. On December 26, 2014, Plaintiffs' attorneys filed an appearance and jury demand. The Court set the case for settlement status on January 16, 2015. (**Exhibit I**)

7. On January 16, 2015, Plaintiffs filed counterclaims under 775 ILCS 5/6-101, 42 U.S.C. 3617, Cook County Human Rights Ordinance Sec. 42-41, and Village of Skokie Human Rights Ordinance Sec. 58-36, alleging retaliatory eviction by the Defendants. (**Exhibit J**). The Court set the case for compliance¹ and settlement on January 30, 2015.

8. On January 30, 2015, the parties met before Judge Thaddeus S. Machnik to inform him the Gregorios had moved out of the Subject Property, but that the parties were unable to settle. The Court set the case for status on March 6, 2015.

9. On March 6, 2015, the court granted a continuance by agreement of the parties, and continued the ordered status date to March 13, 2015.

¹ The Gregorios were to move out of the Subject Property before the next hearing date.

FACTS

The Parties

10. Plaintiff, Ms. Martha Gregorio (“Ms. Gregorio”) resided at 8308 Kilpatrick Avenue, Unit 2E in Skokie, Illinois, (the “Subject Property”), from 2009 until January of 2015.

11. Ms. Gregorio resided in the Subject Property with her four sons.

12. Plaintiff Jesus Santiago (“Mr. Santiago”) is Ms. Gregorio’s twenty-four year old son, who resided in the Subject Property with Ms. Gregorio.

13. Plaintiff JM is Ms. Gregorio’s thirteen year old, minor son, who resided in the Subject Property with Ms. Gregorio.

14. Plaintiff YM is Ms. Gregorio’s eight year old minor son, who resided in the Subject Property with Ms. Gregorio.

15. Plaintiff JM is Ms. Gregorio’s eight year old minor son, who resided in the Subject Property with Ms. Gregorio.

16. During the day Ms. Gregorio sometimes used the Subject Property to babysit the infant daughter of her son, Jesus Santiago.

17. Defendant, Akbar Khan (“Khan”), is the owner of the building at 8308 Kilpatrick Avenue (“the Building”), in which the Subject Property is located.

18. Defendant, Nova Property Management, Inc. (“Nova”), and its agents or employees, are responsible for the operation, administration, and management of the Subject Property, the Building in which the Subject Property is located, and other common areas appurtenant thereto.

The Nature of Plaintiffs’ Tenancy

19. The building in which the Subject Property is located is inhabited predominantly by people of a different national origin and religion than the Gregorios.

20. Based upon information and belief, it is known by the Plaintiffs that Khan, “Muhammad” (who held himself out to the Gregorios as the property manager for the Building), and most of the other tenants in the Building are of the same, or similar descent or national origin, and/or religion.

21. Muhammad lives next door to Ms. Gregorio, on the top floor of the Subject Property.

22. The Gregorios are of Hispanic descent, are Mexican in national origin, and are Catholic in religious beliefs.

23. Ms. Gregorio has complained about water leakage, broken appliances and fixtures, and insect infestation in the Subject Property to Muhammad since she moved into the Subject Property in 2009. (**Group Exhibit A** – *showing defects on subject property complained of to Defendants*)

24. When Ms. Gregorio approached Muhammad with the above problems regarding the Subject Property on multiple occasions, Muhammad responded that the Subject Property was the only unit in the building with those problems.

25. Based upon information and belief, Defendants consistently showed preferential treatment to other tenants of the same, or similar national origin by responding to their complaints about maintenance in their apartments. For example, tenants of the same, or similar national origin or religion as Defendants had their apartments’ fixtures and appliances renovated or replaced by management when requested. (**Group Exhibit L** – *fixtures and appliances removed for renovation by Defendants from another tenant’s apartment*).

26. A wall in Jesus Santiago’s bedroom had to be replaced because a water leak had severely deteriorated the drywall, necessitating replacement due to the growth of mold and physical

damage done to the wall. Ms. Gregorio repaired this wall herself. (**Exhibit E-1, E-4** – *showing water spots formed from water leaks present in Mr. Santiago's bedroom ceiling*).

27. The Building in which the Subject Property is located, suffers from serious defects. These defects include, but are not limited to, an unsecured main entrance to the Building, a leaking roof, and mold growths throughout the Subject Property and the apartment building as a whole. (**Group Exhibit A, E** – *showing the defective condition of the roof and property*).

28. Based upon information and belief, the Village of Skokie has taken legal action against Defendants for violations of the Village Building Code.

29. Ms. Gregorio complained to Muhammad, Nova Property Management and Khan about the conditions of the Building and the Subject Property several times, but none of her complaints were ever answered with any affirmative action to correct the defective conditions of the Building or Subject Property.

30. Due to Defendants' unwillingness to respond to her complaints, Ms. Gregorio purchased appliances and fixtures² to replace broken or defective appliances and fixtures in the Subject Property after it was clear that Defendants would not replace, or repair them, despite her complaints.

31. When she asked Defendants why her complaints were never answered, Defendants responded that in return for her rent not increasing, the defects in the Subject Property or the Building would not be fixed, and that she should stop complaining.

32. On or about July 2014, Ms. Gregorio's son, thirteen year-old JM, suffered serious injuries when an old, un-tempered glass door was blown by a strong gust of wind, shattering on his leg.

² Ms. Gregorio has purchased a \$300 vanity set and a \$450 refrigerator for Nova Property Management. Ms. Gregorio was later reluctantly reimbursed by Nova for these expenses.

Ms. Gregorio then complained to Muhammad about the dangerous nature of the old glass around the building. (**Exhibit K** – *showing the injury JM sustained*).

33. Upon information and belief, Defendants did not respond to any of Ms. Gregorio's complaints about the glass in the common areas of the building, and the danger they impose on children.

34. Since she moved into the Subject Property in 2009, Ms. Gregorio would typically receive a copy of her written lease stating that she was leasing the Subject Property for one year, from Khan or Muhammad.

35. Khan and Ms. Gregorio agreed to a written, year-long lease on or about January 1, 2014, and Khan told Ms. Gregorio that she would get a copy of the year-long lease at a later date.

36. Despite Ms. Gregorio's insistence, Defendants did not give her a copy of the year-long lease she agreed to.

The Collapse of Ms. Gregorio's Ceiling

37. Mr. Jesus Santiago complained to (who was assumed to be) Muhammad's wife about severe leaking in their living room ceiling around 11 P.M. on October 3, 2014 by knocking on their door across the hall and informing Muhammad's wife of the leak.

38. Muhammad's wife said that Muhammad was sleeping at the time and that Muhammad would deal with it tomorrow.

39. The living room ceiling in Ms. Gregorio's unit fell in the morning of October 4, 2014, around 5 A.M. (**Group Exhibit B** – *showing the Subject Property shortly after the ceiling collapsed*).

40. On or about the time part of the ceiling fell, Ms. Gregorio was working her third shift at her job and only her children were home.

41. Shortly after the ceiling fell, Ms. Gregorio returned home and informed Muhammad that she was calling the Skokie Police and Fire Department.

42. Muhammad attempted to dissuade Ms. Gregorio from doing so.

43. The Police and Fire Department responded to Ms. Gregorio's call and wrote an incident report on the ceiling collapse.

44. Immediately after the ceiling collapsed, nothing was done by the management to clean or remove the debris from her apartment, or otherwise address the damage to her unit, despite her repeated requests for them to do so.

The Aftermath of the Collapse

45. On Monday, October 6, 2014, Ms. Gregorio consulted the Village of Skokie Housing Code Enforcement Authority about the damage to the Subject Property.

46. Ms. Gregorio spoke to Mr. George Sellas³, an inspector for the Code Enforcement Authority, about the damage and Mr. Sellas told her that he was going to contact Khan directly.

47. According to Mr. Sellas, Khan was required, by law, to fix the Subject Property within five to seven days or face penalties for the ceiling collapse as a violation of the village housing code.

48. Shortly after Ms. Gregorio reported the violation to the Skokie housing code enforcement authority Khan confronted Ms. Gregorio at her apartment and told her, "I wish you didn't report what happened to the police, in my religion⁴, we settle things before we call the authorities."

49. Khan then raised his voice at Ms. Gregorio and threatened to kick Ms. Gregorio out for contacting the Housing Code Enforcement Authority.

³ Ms. Gregorio had complained to Mr. Sellas in the past of insect infestation at the Subject Property before.

⁴ It is unclear what Khan's religion is. Ms. Gregorio is Catholic.

50. For almost two weeks, the Gregorios constantly complained of cold air drafts, harmful mold, bacteria, and other pathogens emanating from the large hole in the ceiling, and the rotten wooden rafters of the roof, which had become infected with mold, without any response from Defendants.

51. For almost two weeks, the Gregorios complained of outdoor weather conditions within the Subject Property, and water leaks from the collapsed ceiling, which severely impacted their use or enjoyment of the property, without any response from Defendants.

52. Finally, on October 19, 2014, Khan responded to Ms. Gregorio's complaints about the collapsed ceiling.

53. Khan attempted to convince the Gregorios to move out, by saying he was willing to give her security deposit back if she moved, because he did not want to fix the defects on the Subject Property.

54. Ms. Gregorio informed Khan that moving herself and her family would be difficult, as she needed to stay within the area to continue to allow two of her children, who have special needs⁵, to attend a specific school for special needs children.

55. Ms. Gregorio stated that she wanted to continue to rent the Subject Property, and requested that Khan fix the defects in the Subject Property.

56. Khan rejected this proposal, stating that it would have been too expensive to fix the Subject Property.

The "Repairs"

57. October 20th, 2014, a plastic tarp was placed under the hole in the ceiling, secured to the remainder of the ceiling with planks of wood by men hired by Khan. This was done to allegedly

⁵ YM and eight-year old JM have learning disabilities, and must attend a specific school within the district in which the Building is located.

prevent water leaking into the apartment through the hole in the ceiling. This did not remedy the problem of the collapsed ceiling. (**Group Exhibit C** – *showing the repair Defendants attempted on the Subject Property*).

58. The Gregorios's ceiling had been exposed to moisture and had begun to spread mold growths around the hole, and throughout the apartment, exacerbating the existing mold problem. (**Group Exhibit E** – *showing water stains and mold growths throughout the Subject Property after the ceiling collapsed*).

59. Ms. Gregorio had to poke a small hole in the plastic tarp so that the water which collected on the ceiling when it rained, would not rip the plastic tarp, but would instead empty into a large bucket supplied by Ms. Gregorio directly below the hole in the tarp. (**Exhibit C-3**)

60. This unacceptable arrangement was necessary for one and a half months – allowing moisture, mold, bacteria, and other pathogens to spread throughout the Subject Property and other belongings.

61. On October 23, 2014, Muhammad served Ms. Gregorio with the attached 30 day Notice of Termination. (**Exhibit F**). The Notice of Termination was dated October 16, 2014.

62. On October 23, 2014, Muhammad also presented Ms. Gregorio with a Notice of Termination of Tenancy to take effect on November 30th, 2014. (**Exhibit G**). The Notice of Termination of Tenancy was dated October 16, 2014.

63. These notices state that Ms. Gregorio is a month-to-month tenant, however, she had agreed to another, written, year-long lease with Muhammad on or about January 2014.

64. Based upon information and belief, On October 27, 2014, Mr. Sellas, the Code Enforcement Officer for the Village of Skokie whom Ms. Gregorio complained to, contacted

Khan and gave him until November 10th 2014 to fix the hole in Ms. Gregorio's ceiling, or face a five hundred dollar fine.

65. On December 6, 2014, Ms. Gregorio spoke to a contractor named Stefan, who had come to the Subject Property to patch the hole in the ceiling with a sheet of untreated drywall, at Nova's request.

66. Stefan stated that the patch would not hold, and the source of the leak (in the roof of the Building) has not been found or fixed.

67. Stefan stated, however, that Khan hired some workers to put some caulking on the roof but that the roof would still continue to leak. (**Group Exhibit D** - *showing the caulking put on the roof's exterior*).

68. Stefan also stated that Khan did not want to replace the roof, and that the leaks would only get worse.

69. As a direct and proximate cause of the damage to the Subject Property, the Gregorios suffered from colder temperatures as a result of the draft coming from the ceiling, and a large water leak when it rained.

70. As a direct and proximate cause of the damage to the Subject Property, the Gregorios suffered exposure to mold, bacteria, and other pathogens spawned by the leaking roof above their heads, negatively impacting their bodily health.

71. As a direct and proximate cause of the damage to the Subject Property, the Gregorios suffered irreparable damage to their belongings as a result of the ceiling collapse, and the presence of mold spores, bacteria, and other pathogens on their furniture, clothing, and other belongings.

72. As a direct and proximate cause of the damage to the Subject Property, and the conditions of the Subject Property, the Gregorios were forced to move to a more expensive unit in Skokie.

73. The ordinances and laws listed below classify Defendants' actions as retaliatory and illegal.

CLAIMS

I. Discrimination In Violation Of 42 U.S.C. § 3604(b)

74. The Gregorios re-allege and incorporate paragraphs 1-73.

75. The Fair Housing Act, 42 U.S.C. § 3604(b), provides in pertinent part that "it shall be unlawful...to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin." 42 U.S.C. § 3604(b) (West).

76. Ms. Gregorio made reasonable requests for repairs and/or maintenance which were routinely denied by Defendants.

77. However, Defendants showed preferential treatment to tenants of the same, or similar national origin and/or religion by responding to their complaints and performing requested renovations or repairs to their apartment units, while denying the same requests for renovations or repairs from Ms. Gregorio.

78. Defendants thus discriminated against the Gregorios due to their national origin and religion in violation of 42. U.S.C. § 3604(b).

79. As a direct and proximate cause of Defendants' actions, the Gregorios have suffered emotional distress and other tangible damages.

II. Discrimination In Violation of 42 U.S.C. § 3617.

80. The Gregorios re-allege and incorporate paragraphs 1-73.

81. The Fair Housing Act provides in pertinent part, “It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806 of this title.” 42 U.S.C. § 3617 (West).

82. Ms. Gregorio contacted the fire and police departments of the Village of Skokie and the Village of Skokie House Code Enforcement Authority, and complained to Mr. George Sellas.

83. Upon learning that Ms. Gregorio had contacted these governmental departments, Khan confronted Ms. Gregorio and threatened her with eviction.

84. Defendant then filed their Forcible Entry and Detainer suit in Municipal Court.

85. Defendant’s actions constitute a violation of the Federal Fair Housing Act under 42 USC § 3617.

86. As a result of Defendant’s actions, the Gregorios have suffered emotional distress and other tangible damages.

III. Discrimination In Violation of 775 ILCS 5/6-101.

87. The Gregorios re-allege and incorporate paragraphs 1-73.

88. The Illinois Human Rights Act provides in pertinent part that, “It is a civil rights violation for a person to, . . . Retaliate against a person because he or she has, . . . opposed that which he or she reasonably and in good faith believes to be unlawful discrimination, . . . and or . . . made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this Act.” 775 Ill. Comp. Stat. Ann. 5/6-101 (West).

89. Ms. Gregorio complained to the Code Enforcement Authority of Skokie about the unacceptable conditions at the Subject Property.

90. After complaining to the Building Code Enforcement Authority about her ceiling collapsing, Ms. Gregorio was confronted by Khan about making complaints to the Village of Skokie.

91. Defendants then threatened Ms. Gregorio with eviction, and filed an eviction action against her.

92. As a direct and proximate cause of Defendants' actions, the Gregorios have suffered emotional distress and other tangible damages.

IV. Discrimination In Violation of Cook County Human Rights Ordinance § 42-41

93. The Gregorios re-allege and incorporate paragraphs 1-73.

94. Cook County Human Rights Ordinance § 42-41 provides in pertinent part that, "No person shall retaliate against any person because that person in good faith has opposed that which the person reasonably believed to be unlawful discrimination, sexual harassment, or other violation of this article or has made a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this article."

95. Ms. Gregorio complained to the Building Code Enforcement Authority of Skokie about the unacceptable conditions at the Subject Property.

96. After complaining to the Code Enforcement Authority about her ceiling collapsing, Ms. Gregorio was confronted by Khan about making complaints to the Village of Skokie.

97. Defendants then threatened Ms. Gregorio with eviction, and filed an eviction action against her.

98. As a direct and proximate cause of Defendants' actions, the Gregorios have suffered emotional distress and other tangible damages.

V. Discrimination In Violation Of Village of Skokie Human Rights Ordinance § 58-36.

99. The Gregorios re-allege and incorporate paragraphs 1-73.

100. The Village of Skokie Human Rights Ordinance Sec. 59-36 provides in pertinent part that it is a violation of Article II of the Skokie Human Rights Ordinance, "to coerce, intimidate, threaten, or interfere with any person(s) in the exercise or enjoyment of, or on account of, his having exercised or enjoyed, or on account of his having aided or encouraged any other person(s) in the exercise or enjoyment of any right granted or protected by this ordinance."

101. Ms. Gregorio complained to the Building Code Enforcement Authority of Skokie about the unacceptable conditions at the Subject Property.

102. After complaining to the Code Enforcement Authority about her ceiling collapsing, Ms. Gregorio was confronted by Khan about making complaints to the Village of Skokie.

103. Defendants then threatened Ms. Gregorio with eviction, and filed an eviction action against her.

104. As a direct and proximate cause of Defendants' actions, the Gregorios have suffered emotional distress and other tangible damages.

PRAYER FOR RELIEF

105. WHEREFORE, Plaintiffs, MARTHA GREGORIO, JM, YM, JM and JESUS SANTIAGO, by and through their counsel, request the following relief:

- a. A declaration that the Defendant Akbar Khan has violated the Fair Housing Act, the Illinois Human Rights Act, the Village of Skokie Human Rights

Ordinance, The Cook County Human Rights Ordinance, and Cook County Ordinance 5-12-070.

- b. That the Court grant damages to Plaintiff damages in the amount of twenty-five thousand dollars (\$25,000);
- c. That the Court assess a civil penalty
- d. That the Court grant an order forbidding defendant from discriminating against persons protected by these ordinances in the future;
- e. That the Court grant Ms. Gregorio costs and reasonable attorney's fees;
- f. That the Court grant such additional and further relief this Court deems equitable and just.

Respectfully submitted,

/s/ Kevin C. Cruz, Esq.

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