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Plaintiff's Complaint for Injunctive and Other Relief, Selfreliance Ukrainian American v. Windsor Point Condominium, Docket No. 2013-CH-17748 (Ill. Cir. Ct. July 26, 2013)

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CHANCERY DIVISION

SELFRELIANCE UKRAINIAN
AMERICAN FEDERAL CREDIT
UNION,

Plaintiff,

v.

WINDSOR POINT CONDOMINIUM
ASSOCIATION, INC., JANINA
JANOWSKA, BARBARA CHOLEWA,
and HALINA STOPKA

Defendants.

Case No.

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CIRCUIT COURT OF COOK COUNTY
CHANCERY DIVISION
13 CH 17748

PLAINTIFF'S COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

NOW COMES Plaintiff, SELF RELIANCE UKRAINIAN AMERICAN FEDERAL CREDIT UNION, ("Selfreliance"), by and through its attorneys The John Marshall Law School Fair Housing Legal Clinic and complain against Defendant, WINDSOR POINT CONDOMINIUM ASSOCIATION, INC., JANINA JANOWSKA, BARBARA CHOLEWA, and HALINA STOPKA "(Defendants)". In support of its complaint, Selfreliance states as follows:

JURISDICTION AND VENUE

1. This court has jurisdiction and venue over this action pursuant to the Illinois Condominium Property Act, 765 ILCS 605/1, *et seq.*
2. Venue is proper in the Circuit Court of Cook County because the events giving rise to the claims of housing discrimination occurred in Cook County. The real property in question is located at 4539 North Milwaukee Avenue, Unit C3, Chicago, IL 60630 in Cook County ("Condominium unit C3").

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AMERICAN FEDERAL CREDIT)	
UNION,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
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ASSOCIATION, INC., JANINA)	
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PARTIES

Plaintiff

3. Plaintiff, Selfreliance, is a member owned financial cooperative who owns condominium unit C3 in Windsor Point Condominium ("Condominium") at 4539 North Milwaukee Avenue, Chicago, Illinois 60622. Selfreliance acquired condominium unit C3 on February 13, 2013 by judicial sale deed as a result of a foreclosure action.

Defendants

4. Defendant, Windsor Point Condominium Association, Inc., ("Association") is an Illinois not-for-profit corporation of all unit owners for the Condominium located at 4531-45 North Milwaukee Avenue, Chicago, Illinois. Defendant Association was formed and exists for the purposes set forth in the Declaration of Condominium Ownership and By-Laws, Easements, Restriction and Covenants for Windsor Point Condominium dated June 2, 1978.

5. Defendant Janina Janowska is a member of the Association and a member of its managing body, the Board of Directors, and president of the Board. Ms. Janowska is also the registered agent for the Association.

6. Defendant Barbara Cholewa is a member of the Association and its managing body, the Board of Directors, and vice-president of the Board.

7. Defendant Halina Stopka is a member of the Association and its managing body, the Board of Directors, and Treasurer of the Board.

STATEMENT OF FACTS

8. The Condominium is located at 4531-45 North Milwaukee Avenue, Chicago, Illinois and consists of three building with six units in each building.

9. Selfreliance owns condominium unit C3 in the Condominium located at 4539 N. Milwaukee Chicago, IL 60630. (Exhibit C Baransky Affidavit ¶ 2)

10. Selfreliance acquired the property on February 13, 2013 by judicial sale deed as a result of a foreclosure action. (Exhibit A Kramar Affidavit ¶ 3)

11. The previous mortgagors gave Selfreliance's Real Estate Owned Specialist ("REO Specialist"), Volodymyr Kramar, the keys to the property on January 22, 2013. (Exhibit A Kramar Affidavit ¶ 3)

Selfreliance's Efforts to Sell Condominium Unit C3

12. Since the Condominium prohibits renting units, condominium unit C3 was repaired maintained and cleaned up for sale and listed for sale on April 1, 2013. (Exhibit A Kramar Affidavit ¶ 4)

13. Selfreliance retained Century 21 Elm Realtors and agent Susan James listed condominium unit C3 for sale on April 1, 2013 for a price of \$114,900. (Exhibit B James Affidavit ¶ 2)

14. Real estate agents from various companies that subscribe to the MLS showed condominium unit C3 to thirty potential buyers from April 3, 2013 to May 15, 2013. (Exhibit B James Affidavit ¶ 5)

15. Real estate agent Guy Suesunitisook showed condominium Unit C3 to Pairode and Passamai Roobsawang on or about May 4, 2013. (Exhibit B James Affidavit ¶ 11)

16. Selfreliance and the Roobsawangs entered into a sales contract for condominium Unit C3 on May 16, 2013 for \$95,000 with a closing date of July 18, 2013. (Exhibit B James Affidavit ¶ 13)

17. On May 21, 2013, the buyers' attorney requested that Selfreliance provide the buyers with information about the Condominium pursuant to the Illinois Condominium Property Act Section 22.1. (Exhibit C Baransky Affidavit ¶ 11)

Selfreliance's Efforts to Obtain Condominium's Paperwork

18. Selfreliance's representatives have made repeated attempts to obtain copies of the Condominium's papers since January 2013.

19. On January 23, 2013, Janina Janowska, the Condominium Association's Board President, came over to condominium Unit C3 while Mr. Kramar was there changing the locks on the unit. Mr. Kramar asked Ms. Janowska in Polish for all the Condominium's papers and she only gave him the 2012 Income and Expense statement. (Exhibit A Kramar Affidavit ¶ 8, 10)

20. Ms. James made several attempts to reach Ms. Janowska to request copies of the Association's Board of Directors rules and regulations and meeting minutes and the Condominium's declaration, budget, and bylaws, including on April 13, 14, and 17, 2013 by telephone. (Exhibit B James Affidavit ¶ 6)

21. On April 17, 2013, Ms. James reached Ms. Janowska and scheduled an appointment to pick up the documents for a \$20.00 fee at her Ms. Janowska's apartment. (Exhibit B James Affidavit ¶ 8)

22. On April 18, 2013, Ms. James went to Ms. Janowska's apartment and paid \$20.00 to the Association on behalf of Selfreliance, however, Ms. Janowska only provided Ms. James with the Association's Board of Directors rules and regulations. Ms. Janowska told her that was all there was and that "no meetings, we're all friends." (Exhibit B James Affidavit ¶ 8-10)

Selfreliance's Efforts to Obtain Documents from Condominium to Complete Sale

23. The Condominium Association's Board of Directors rules and regulations provide four rules governing unit sales and occupancy in the Condominium, and state as follows:

1. New condominium buyers must take an appointment with the Board before the closing date in order to be accepted.
2. The condominium owners shall notify the Board about the date of any "OPEN HOUSE."
3. Starting October 18, 2008 the maximum of units shall be four (4) people. For each additional person, an assessed fee should be paid in amount of \$20.00 per person per month.
4. If the condominium owners do not obey the above mentioned rules, the Board will levy a fine in the amount of \$150.00.

24. On June 19, 2013, Ms. James attempted to reach Ms. Janowska over the phone in order to request completion of a 22.1 Condominium Disclosure form pursuant to the buyer's request for information on May 21, 2013. They had a short conversation in which Ms. Janowska said "we want Polish or Serbian" and hung up the phone. Ms. James tried to call her back on June 19 and 20, 2013, however, Ms. Janowska answered the phone and hung up the phone every time she called. (Exhibit B James Affidavit ¶ 14)

25. On June 20, 2013, Ms. James went to Ms. Janowska's unit to request completion of the of the 22.1 Condominium Disclosure form. No one came to the door. (Exhibit B James Affidavit ¶ 16)

26. On June 20, 2013, Ulana Baransky, Selfreliance's real estate attorney, called and spoke with Ms. Janowska and requested that she complete and sign the 22.1 Condominium Disclosure Form and follow the Association's rules and regulations. Ms. Janowska responded, "Board No information. No appointment. My lawyer to call you." (Exhibit C Baransky Affidavit ¶ 7-8)

27. On June 21, 2013, Ms. Baransky went to Ms. Janowska's unit to provide her with the sales contract, ask her to complete the 22.1 disclosure form as required by the Illinois Condominium Property Act. No one came to the door. Ms. Baransky left a letter stating her requests with copies of the sales contract and the 22.1 Condominium Disclosure form in an envelope under the door to her unit. (Exhibit C Baransky Affidavit ¶ 10)

28. On June 21, 2013 after leaving the papers for Ms. Janowska, Ms. Baransky also went to the unit of Ms. Barbara Cholewa, the Vice President of the Association. She came to the door and Ms. Baransky told her that she left papers that needed to be completed by the Association for Ms. Janowska who was not home. (Exhibit C Baransky Affidavit ¶ 11)

29. Ms. Janowska called Ms. Baransky that morning of June 21, 2013 and stated that “no see people” and “no form.” Ms. Baransky understood her to mean that she needed to see the buyers first before she provided any documents in response to Ms. Baransky’s letter. (Exhibit C Baransky Affidavit ¶ 14)

30. Ms. Baransky had three conversations with Ms. Janowska on June 21, 2013 in order to schedule a meeting between the Association’s Board and the property’s buyers which was finally scheduled for Monday, June 24, 2013 at 1:00 pm in Ms. Janowska’s unit. (Exhibit C Baransky Affidavit ¶ 15,17)

31. Ms. James arranged to accompany Pairode and Passamai Roobsawang to the scheduled meeting on June 24, 2013 because their agent was unable to accompany them. (Exhibit B James Affidavit ¶ 18)

32. When Ms. James arrived at the Condominium at 1 p.m. on June 24, 2013, she saw Pairode and Passamai Roobsawang standing outside the Condominium on Milwaukee Avenue and Ms. Janowska and Ms. Halina Stopka, the Association’s Treasurer, walking the opposite direction. (Exhibit B James Affidavit ¶ 19)

33. Pairode and Passamai Roobsawang told Ms. James that they had not met with Ms. Janowska. (Exhibit B James Affidavit ¶ 20)

34. Ms. James approached Ms. Janowska who was on the street and asked her were they not having the scheduled meeting. Ms. Janowska responded, “No contract, No Contract”

and “No Meeting.” Ms. James attempted to explain to Ms. Janowska that she had the contract but Ms. Janowska continued to walk away. (Exhibit B James Affidavit ¶ 22)

35. Ms. Janowska had given Pairode and Passamai Roobsawang each a piece of paper to complete with handwritten notes asking for the following information to be completed: name, telephone number, previous address, 5 year history, employment, work telephone number, and copy of criminal report. At the bottom, of the page it stated that “this was to be done before signing contract.” (Exhibit B James Affidavit ¶ 25)

36. On June 24, 2013, Ms. Baransky came to the Condominium and brought the completed handwritten pages by buyers to Ms. Janowska along with another copy of the sales contract, another copy of the blank 22.1 Condominium Disclosure form and a copy of Ms. Baransky’s June 21, 2013 letter. (Exhibit C Baransky Affidavit ¶ 22)

37. Ms. Janowska told Ms. Baransky that there was not a contract and that she needed to meet with people before a contract. (Exhibit C Baransky Affidavit ¶ 24)

38. Ms. Baransky tried to explain to her that the rules stated they had to meet with a buyer before closing. (Exhibit C Baransky Affidavit ¶ 25)

39. In a letter to the Association’s Board Members on June 25, 2013, Ms. Baransky first requested that the Association provide Selfreliance with the right of first refusal letter and the assessments paid letter in addition to again requesting the completed 22.1 Condominium Disclosure form. (Exhibit C Baransky Affidavit ¶31)

40. Ms. Baransky, requested these documents for a second time in a letter to the Association on June 27, 2013. (Exhibit C Baransky Affidavit ¶ 32)

41. On June 27, 2013, Mr. Kramar delivered the criminal background checks on the buyers to Ms. Janowska. Ms. Janowska told Mr. Kramar that she would not sign anything and that Selfreliance should find another buyer. (Exhibit A Kramar Affidavit ¶ 17)

42. In a letter to the Association's Board Members on July 17, 2013 through counsel, Selfreliance again requested the completed 22.1 Condominium Disclosure form, the right of first refusal letter and the assessments paid letter.

43. Ms. Janowska informed counsel through a Polish translator on July 18, 2013 that she would not sign the forms and that there was nothing further Selfreliance could do in order for her to do so.

44. Mortgage contingency was extended to July 19, 2013 with closing shortly after. Mortgage commitment was issued on July 2, 2013 and sellers and purchasers are ready to close but Ms. Janowska has failed to provide Selfreliance the completed 22.1 condominium disclosure form, right of first refusal waiver letter, the and the paid assessments letter. (Exhibit C Baransky Affidavit ¶ 33)

45. As of the date on which this complaint was filed, the buyers were still willing to proceed with the sale of condominium unit C3.

COUNT I – INJUNCTION

46. Plaintiff restates and re-alleges paragraphs 1 through 45 as if fully set forth herein.

47. The Illinois Condominium Property Act provides that “[i]n the performance of their duties, the officers and members of the board, whether appointed by the developer or elected by unit owners, shall exercise the care required of a fiduciary of the unit owners.” 765 ILCS 605/18.4.

48. The Illinois Condominium Property Act provides that “in the event of any resale of a condominium unit by a unit owner other than the developer such owner shall obtain from the Board of Managers and shall make available for inspection to the prospective purchaser, upon demand, the following ...” 765 ILCS 605/22.1(a).

49. The Illinois Condominium Property Act provides that “the principal officer of the unit owner's association or such other officer as is specifically designated shall furnish the [requested information in 22.1(a)] information when requested to do so in writing and within 30 days of the request.” 765 ILCS 605/22.1(b).

50. Defendants owe the individual owners, including Plaintiff, a fiduciary duty to exercise care in the performance of their duties, to follow the Condominium's rules, and to provide them with Condominium paperwork, the completed 22.1 Condominium Disclosure form, and other information and documents Plaintiff has requested of them.

51. Defendants breached their fiduciary duty to Plaintiff by refusing and failing to follow the Condominium's rules, provide them with Condominium paperwork, the completed 22.1 Condominium Disclosure form, and other information and documents Plaintiff has requested of them in order to allow the sale of the condominium unit C3 to proceed.

52. Defendants breached their duty to Plaintiff by intentionally and unjustifiably inducing a breach of the sales contract between Plaintiff and Pairode and Passamai Roobsawang for the sale of condominium unit C3.

53. Defendants' actions and conduct is causing irreparable harm to Plaintiff.

54. Plaintiff has no adequate remedy at law and is seeking a permanent injunction against Defendants preventing them from interfering and preventing the sale of condominium unit C3 and provide Plaintiff with the completed 22.1 Condominium Disclosure form, an assessments paid letter and a right of first refusal letter.

COUNT II – BREACH OF FIDUCIARY DUTY

55. Plaintiff restates and re-alleges paragraphs 1 through 54 as if fully set forth herein.

56. The Illinois Condominium Property Act provides that “[i]n the performance of their duties, the officers and members of the board, whether appointed by the developer or

elected by unit owners, shall exercise the care required of a fiduciary of the unit owners.” 765 ILCS 605/18.4.

57. The Illinois Condominium Property Act provides that “in the event of any resale of a condominium unit by a unit owner other than the developer such owner shall obtain from the Board of Managers and shall make available for inspection to the prospective purchaser, upon demand, the following ...” 765 ILCS 605/22.1(a).

58. The Illinois Condominium Property Act provides that “the principal officer of the unit owner's association or such other officer as is specifically designated shall furnish the [requested information in 22.1(a)] information when requested to do so in writing and within 30 days of the request.” 765 ILCS 605/22.1(b).

59. The Defendants owe the individual owners, including Plaintiff, a fiduciary duty to exercise care in the performance of their duties, to follow the Condominium’s rules, and to provide them with Condominium paperwork, the completed 22.1 Condominium Disclosure form, and other information and documents Plaintiff has requested of them.

60. The Defendants breached their fiduciary duty to Plaintiff by refusing and failing to follow the Condominium’s rules, provide them with Condominium paperwork, the completed 22.1 Condominium Disclosure form, and other information and documents Plaintiff has requested of them in order to allow the sale of the condominium unit C3 to proceed.

61. As a direct and proximate result of Defendants’ breach, Plaintiff has incurred irreparable harm and damages.

COUNT III – TORTIOUS INTERFERENCE WITH CONTRACT

62. Plaintiff restates and re-alleges paragraphs 1 through 61 as if fully set forth herein.

63. Plaintiff entered into a valid and enforceable contract with Pairode and Passamai Roobsawang for the sale of condominium unit C3.

64. Defendants were aware of the contract for the sale of condominium unit C3 between Plaintiff and Pairode and Passamai Roobsawang.

65. Defendants intentionally and unjustifiably induced breach of the contract.

66. Defendants wrongful conduct caused the breach of contract.


67. As a direct and proximate result of Defendants' conduct, Plaintiff has incurred irreparable harm and damages.

RELIEF

WHEREFORE, Plaintiff, Selfreliance, respectfully requests that this Court:

- a. Order Defendants to complete the 22.1 condominium disclosures as required by the Condominium Property Act;
- b. Order Defendants to issue a right of first refusal letter and an assessments paid letter;
- c. Enjoin Defendants from breaching their duties to Plaintiff by interfering in the sale of condominium unit C3; and
- d. Award Plaintiff reasonable attorneys' fees and court costs; and for any other relief this Court deems just and equitable.

Respectfully Submitted,


One of its attorneys

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