

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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No. 15-41372

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United States Court of Appeals  
Fifth Circuit

**FILED**

July 6, 2016

Lyle W. Cayce  
Clerk

EMILIA DIAZ,

Plaintiff - Appellant

v.

DEUTSCHE BANK,

Defendant - Appellee

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 5:14-CV-121

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Before WIENER, PRADO, and OWEN, Circuit Judges.

PER CURIAM:\*

Plaintiff-Appellant Emilia Diaz sued the Defendant-Appellee Deutsche Bank in state court for breach of contract, breach of fiduciary duty, fraud, trespass to try title, wrongful foreclosure, and promissory estoppel, ultimately seeking a declaratory judgment that the title to her Laredo, Texas, real estate is vested in her alone and that she alone is entitled to possession of the property. Deutsche Bank removed the case to federal court based on diversity.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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Deutsche Bank had previously acquired a Deed of Trust on that property and instituted foreclosure proceedings after Diaz ceased making payments on the mortgage. She alleged that she did so in an effort to obtain a loan modification under the Home Affordable Mortgage Program at the suggestion and encouragement of her mortgage services provider, SP&S, Inc.

Deutsche Bank moved to dismiss Diaz's action under Federal Rule of Civil Procedure 12(b)(6), and the magistrate judge recommended dismissal. The district court dismissed Diaz's action and she timely filed a notice of appeal.

We have now reviewed in detail the entire record on appeal, including the briefs of counsel for the parties and the record excerpts, and we have heard oral argument from those counsel further explicating their respective positions. As a result, we conclude that the district court committed no reversible error in any of its rulings. Accordingly, that court's dismissal of this action is, in all respects,

**AFFIRMED.**