

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

No. 17-51140

United States Court of Appeals
Fifth Circuit

FILED

December 11, 2018

Lyle W. Cayce
Clerk

SUE WHITE; RICHARD WHITE,

Plaintiffs - Appellants

v.

DLJ MORTGAGE CAPITAL, INCORPORATED,

Defendant - Appellee

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:17-CV-396

Before STEWART, Chief Judge, KING and OWEN, Circuit Judges.

PER CURIAM:*

In 2016, a Texas state court issued an order authorizing DLJ Mortgage Capital, Inc., to foreclose on property owned by Sue and Richard White. The Whites subsequently sued DLJ seeking to prevent the foreclosure. DLJ removed the suit to federal court, and the district court granted summary judgment in favor of DLJ. The Whites appealed. While this appeal was pending, DLJ foreclosed on the Whites' house. The Whites vacated the property and signed an expansive release, surrendering any claims related "to the loan

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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which gave rise to the foreclosure, the foreclosure process, [and] the [f]oreclosure [s]ale.”

When pressed on the issue of mootness at oral argument, counsel for the Whites only argued that the controversy was still live because the court should reverse the district court’s grant of summary judgment and find that the state-court order authorizing foreclosure is barred by the statute of limitations. Given that the foreclosure sale authorized by the state court has already occurred, we are not inclined to do that. To the extent that the Whites seek some other remedy, counsel has failed to present it to this court.

Appeal DISMISSED. Each party shall bear its own costs.