

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

Selma S. BUYCKS-ROBERSON,)
Renee BROOKS and Calvin ROBERSON)
on behalf of themselves and)
others similarly situated,)

No. 94 C 4094

Judge Castillo

Plaintiffs)

vs.)

CITIBANK FEDERAL SAVINGS)
BANK,)

Defendant.)

RECEIVED
JUL 14 1995

FILED

JUL 13 1995

H. STUART CUNNINGHAM, Clerk
U.S. DISTRICT COURT

SECOND AMENDED COMPLAINT

Plaintiffs Selma S. Buycks-Roberson, Renee Brooks and Calvin R. Roberson, on behalf of themselves and others similarly situated, by and through their attorneys, make this Second Amended Complaint against Defendant, Citibank Federal Savings Bank ("Citibank").

NATURE OF THE ACTION

1. This is a civil action brought by Selma S. Buycks-Roberson, Renee Brooks and Calvin R. Roberson on behalf of themselves and all other African-Americans whose home loan applications to Citibank originated from the Chicago metropolitan area and whose applications were rejected because of their race or color or because of the racial composition of the neighborhood in which their properties were located. This action seeks injunctive relief and monetary damages for violations of 42 U.S.C. §§ 1981 and 1982; 42 U.S.C. § 3605 and 15 U.S.C. § 1691(a).

91

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 28 U.S.C. § 1343(a)(4), 42 U.S.C. § 3613(a)(1)(A) and 15 U.S.C. § 1691e(f).

3. Venue is proper in the Northern District of Illinois since some of the acts and transactions complained of occurred in this district.

THE PARTIES

4. Plaintiff Selma S. Buycks-Roberson is an African-American citizen of the United States who resides in Broadview, Illinois.

5. Plaintiff Renee Brooks is an African-American citizen of the United States who resides in Chicago, Illinois.

6. Plaintiff Calvin R. Roberson is an African-American citizen of the United States who resides in Chicago, Illinois.

7. Defendant Citibank is a federal savings bank that offers residential mortgage loans ("home loans").

CLASS ACTIONS ALLEGATIONS

8. (a) Plaintiffs are Citibank home loan applicants; they bring this action on behalf of themselves and all other African-American home loan applicants similarly situated. This action is brought as a class action pursuant to Rule 23(b)(2) and Rule 23(b)(3) of the Federal Rules of Civil Procedure.

(b) The class consists of all African-Americans who filed applications for home loans to Citibank and were rejected on or after July 6, 1992 because they are African-American and/or

because the racial composition of the neighborhoods in which their properties were located was predominantly African-American.

(c) The class is so numerous that joinder of all persons is impracticable. Plaintiffs are informed and believe that many home loan applications to Defendant by African-Americans were illegally rejected. On information and belief, Defendant rejected the home loan applications of many dozens of African-American applicants because of their race or color, and/or because of the racial composition of the neighborhoods in which their properties were located.

(d) Plaintiffs will fairly and adequately protect the interests of all class members, as they are members of the class and their claims are typical of the claims of all class members. Plaintiffs are incensed by the treatment they have received and will aggressively pursue their as well as the class's interests. Plaintiffs' interests in obtaining injunctive relief and monetary damages for the violations of the above-mentioned federal statutes are consistent with and not antagonistic to those of any person within the class.

(e) The common questions of law and fact include:
(i) whether Defendant had a policy, practice or procedure to reject home loan applications on the basis of the applicants' race or on the basis of the racial composition of the neighborhoods in which their properties were located; (ii) whether the conduct alleged herein is in violation of Title 42 U.S.C. §§ 1981 and 1982; 42 U.S.C. § 3605 and 15 U.S.C.

§ 1691(a); and (iii) whether Plaintiffs are entitled to an award of actual, compensatory or punitive damages.

(f) The wrongful conduct alleged herein has been taken generally against all members of the class in that African-American home loan applicants have had their loan applications rejected on the basis of their race or color, or because of the racial composition of the neighborhoods in which their properties were located, or both, pursuant to the policies, practices or procedures of Defendant.

(g) The common questions of fact and law predominate over questions affecting only individual class members.

(h) A class action is superior to other available methods for the fair and efficient adjudication of the controversy in that: (i) a multiplicity of suits with consequent burden on the courts and Defendant should be avoided; and (ii) it would be unduly burdensome for all class members to intervene as parties-plaintiffs in this action.

THE FACTS

Ms. Buycks-Roberson

9. On or about April 4, 1992, Plaintiff Selma Buycks-Roberson applied for a home loan of approximately \$43,700 from Citibank.

10. The purpose of the loan was to refinance an existing mortgage of approximately \$43,500 on Ms. Buycks-Roberson's home, located at 2057 South 25th Avenue in Broadview, Illinois.

11. The property that Ms. Buycks-Roberson attempted to refinance is located in a neighborhood in which the African-

American representation is growing and currently constitutes over fifty percent (50%) of that neighborhood's population.

12. Ms. Buycks-Roberson provided to Citibank extensive financial documentation concerning her financial ability and the property, including documents showing annual income of over \$47,000.

13. On or about April 28, 1992, Ms. Buycks-Roberson received from Defendant Citibank a letter that informed her that her mortgage loan application had been denied because of delinquent credit obligations and other adverse credit.

14. On June 19, 1992, Ms. Buycks-Roberson reapplied for the home loan, and again provided to Citibank extensive financial documentation concerning her annual income, financial ability and additional information concerning her credit worthiness.

15. On or after July 10, 1992, Ms. Buycks-Roberson received from Citibank a letter that informed her that her mortgage loan application had been denied because her "income [did] not support the amount of credit requested."

16. Ms. Buycks-Roberson was qualified to receive the loan she sought from Citibank.

Ms. Brooks

17. On or about November 25, 1993, Plaintiff Renee Brooks applied for a home loan of approximately \$95,000 from Citibank.

18. Ms. Brooks provided Citibank with all documentation that Citibank required.

19. The purpose of the loan was to refinance an existing mortgage of approximately \$95,000 on Ms. Brooks's condominium, located at 5000 South Cornell Street in Chicago, Illinois.

20. The property that Ms. Brooks attempted to refinance is located in a neighborhood in which there is a significant African-American population.

21. On or about March 8, 1994, Ms. Brooks's application for a home loan was denied on the grounds that she had inadequate collateral, and on the grounds that she had submitted an incomplete application.

22. Ms. Brooks was qualified to receive the home loan she sought from Citibank.

Mr. Roberson

23. On or about July 9, 1993, Plaintiff Calvin Roberson applied for a home loan of approximately \$43,000 from Citibank.

24. The purpose of the loan was to refinance an existing mortgage of approximately \$43,000 on Mr. Roberson's home, located at 2847 West 85th Street in Chicago, Illinois.

25. The property which Mr. Roberson attempted to refinance is located in a neighborhood in which the African-American representation is growing.

26. Mr. Roberson provided Citibank with all documentation that Citibank requested, including documents showing an annual income of approximately \$69,000 from his management position at AT&T, and the equity in his home valued at approximately \$75,000. Mr. Roberson also provided documentation showing additional liquid assets well in excess of the amount of the loan requested.

Mr. Roberson's income was more than sufficient to enable him to meet his credit obligations.

27. On or about July 9, 1993, Mr. Roberson received a letter from Citibank, denying his application for refinancing on the grounds that it was "incomplete," and on the grounds that Defendant Citibank did not "make this type of loan."

28. Mr. Roberson was qualified to receive the loan he sought from Citibank.

COUNT I
EQUAL CREDIT OPPORTUNITY

29. Plaintiffs adopt and reallege ¶¶ 1 through 28 of this Complaint and incorporate them by reference as ¶ 29 of Count I.

30. The Equal Credit Opportunity Act, 15 U.S.C. § 1691 (1976), makes it unlawful for any creditor to discriminate against any applicant with respect to any aspect of a credit transaction on the basis of race. Section 1691e of this Act allows a civil action to be brought by any person damaged under the Act.

31. Defendant refused to approve Plaintiffs' loan applications because Plaintiffs are African-American. Defendant has, therefore, discriminated against Plaintiffs on the basis of their race or color, in violation of the Equal Credit Opportunity Act, 15 U.S.C., § 1691, et seq.

32. As a direct and proximate result of Defendant's unlawful discrimination against Plaintiffs, Plaintiffs have suffered, and continue to suffer, great embarrassment, humiliation and emotional distress.

33. Plaintiffs possessed adequate income and assets and had adequate credit history to qualify for the loans requested, the value and/or the equity they had in their properties were sufficient to support the loans, and Defendant was aware of those facts.

34. Defendant's discrimination against Plaintiffs was intentional and willful.

WHEREFORE, each Plaintiff asks judgment against Defendant for:

- (a) Actual damages in an amount to be proved at trial;
- (b) Compensatory damages in an amount to be proved at trial;
- (c) Punitive damages, not exceeding the lesser of \$500,000 or one per centum of the net worth of the Defendant;
- (d) Appropriate injunctive relief;
- (e) Reasonable attorneys' fees and costs of suit; and
- (f) Further relief as this Court deems just and proper.

COUNT II
FAIR HOUSING ACT

35. Plaintiffs adopt and reallege ¶¶ 1 through 28 of this Complaint and incorporate them by reference as ¶ 35 of Count II.

36. This claim is brought under the Fair Housing Act, 42 U.S.C. §§ 3601, et seq. Section 3613(a)(1)(A) of this Act allows a civil action to be brought by any person damaged under the Act. Sections 3605(a) and (b)(1) provides that it shall be unlawful for any person or entity whose business includes engaging in residential real-estate-related transactions to

discriminate against any person in making available such a transaction, or in the terms of such a transaction, because of race or color.

36. Defendant's refusals to approve Plaintiffs' loan applications were motivated by discrimination. The primary bases for Defendant's refusal to approve Plaintiffs' loans were that Plaintiffs are African-American, and that Plaintiffs' properties are located in neighborhoods in which African-Americans constitute a substantial percentage of the population.

37. Defendant's refusal to make home loans because of Plaintiffs' race and the racial composition of the neighborhoods in which they reside denied Plaintiffs' rights secured under 42 U.S.C. §§ 3601, et seq.

38. As a direct and proximate result of Defendant's unlawful violation of 42 U.S.C. §§ 3601, et seq., Plaintiffs have suffered and continue to suffer great embarrassment, humiliation and emotional distress.

39. Defendant's violation of 42 U.S.C. §§ 3601, et seq. was willful and wanton, and motivated by ill will and malice.

WHEREFORE, Plaintiffs ask judgment against Defendant for:

- (a) Actual damages in an amount to be proved at trial;
- (b) Compensatory damages in an amount to be proved at trial;
- (c) Punitive damages;
- (d) Appropriate injunctive relief;
- (e) Reasonable attorneys' fees and costs of suit; and
- (f) Further relief as this Court deems just and proper.

COUNT III
CIVIL RIGHTS

39. Plaintiffs adopt and reallege ¶¶ 1 through 28 of this Complaint and incorporate them by reference as ¶ 39 of Count III.

40. Count III is brought pursuant to the Thirteenth Amendment of the United States Constitution to redress the deprivation of rights, privileges and immunities secured thereby. Count III is also brought pursuant to 42 U.S.C. §§ 1981 and 1982 to secure the right of Plaintiffs to make and enforce contracts on the same basis that such rights are enjoyed by white citizens, and to enforce the right of Plaintiffs to inherit, purchase, lease, sell, hold, and convey real and personal property on the same basis as white citizens.

41. Defendant, on the basis of race and color, has deprived Plaintiffs of the full and equal enjoyment of goods, services, facilities, privileges, advantages, and accommodations, including the right to enforce contracts and to have interest in property, as are enjoyed by white citizens. Defendant's refusal to provide Plaintiff a home loan was intentional and willful with the purpose and intent of depriving Plaintiff of her constitutional right to freely purchase property without regard to race.

42. As a direct and proximate result of the wrongful acts by the Defendant, Plaintiffs have suffered actual damages and will continue to suffer damages from the humiliation and embarrassment caused by the Defendant's refusal to deal with them because of their race or color, and the deprivation by Defendant of Plaintiffs' constitutional and statutory rights freely to obtain home loans without regard to race.

43. Because of the Defendant's malicious refusal to deal with Plaintiffs and its policy of discrimination against Plaintiffs because of race or color, Plaintiffs claim punitive or exemplary damages.

WHEREFORE, Plaintiffs ask judgment against Defendant for:

- (a) Actual damages in an amount to be proved at trial;
- (b) Compensatory damages in an amount to be proved at trial;
- (c) Punitive damages;
- (d) Appropriate injunctive relief;
- (e) Reasonable attorneys' fees and costs of suit; and
- (f) Further relief as this Court deems just and proper.

SELMA S. BUYCKS-ROBERSON; RENEE BROOKS; and CALVIN R. ROBERSON, on behalf of themselves and others similarly situated

By: Hilary Alexis
One of Their Attorneys

Fay Clayton, Esq.
Hilary I. Alexis, Esq.
Sara N. Love, Esq.
ROBINSON CURLEY & CLAYTON, P.C.
300 South Wacker Drive
Suite 1700
Chicago, Illinois 60606
(312) 663-3100

Judson H. Miner, Esq.
Jeffrey Cummings, Esq.
Davis Miner Barnhill & Galland
14 West Erie Street
Chicago, Illinois 60610
(312) 751-1170

CERTIFICATE OF SERVICE

I, Dana Carrera, certify that I shall cause to be served a copy of **PLAINTIFFS' SECOND AMENDED COMPLAINT** upon the following party, via First Class Mail, messenger delivery, Federal Express, or telefax, as indicated, this 13th day of July, 1995:

First Class Mail
 Messenger Delivery
 Federal Express
 Telefax Delivery

Alan N. Salpeter, Esq.
Robert J. Kriss, Esq.
Mary Ann Spiegel, Esq.
Mayer Brown & Platt
190 South LaSalle Street
Chicago, Illinois 60603
(312) 701-7711 -- Telefax No.

Dana M. Carrera

Dana Carrera

Subscribed and sworn to
before me this 13th day
of July, 1995

Dawn M. Shields
Notary Public

