

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

RESIDENTIAL CAPITAL, LLC, *et. al.*

Debtors.

MARION L. JENKINS AND SHARON JENKINS,

Plaintiffs,

v.

RESIDENTIAL FUNDING COMPANY, LLC, *et al.*,

Defendants.

Chapter 11

Case No. 12-12020 (MG)

Adv. Pro. No. 12-01935 (MG)

**ORDER DENYING MOTION FOR RECONSIDERATION**

Pending before the Court is the *Motion to Reconsider January 24th, 2014 Order Dismissing Plaintiff's Adversary Complaint for Lack of Subject Matter Jurisdiction* (the "Motion," ECF Doc. # 51), filed by the plaintiffs in this adversary proceeding. The plaintiffs assert that they are pursuing the Motion under Rule 9023 of the Federal Rules of Bankruptcy Procedure. That rule incorporates Rule 59 of the Federal Rules of Civil Procedure, which regulates motions for amendment of a judgment. The plaintiffs ask the Court to reconsider its opinion and order (the "Order," ECF Doc. # 50) dismissing the adversary complaint as to Wells Fargo, U.S. Bank, and Residential Funding Company ("RFC").

Under Rule 9023, reconsideration is proper "to correct a clear error of law or prevent manifest injustice," *see Munafo v. Metro. Transp. Auth.*, 381 F.3d 99, 105 (2d Cir. 2004) (internal quotation marks omitted), or where controlling law has changed or new evidence has



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surfaced. *See Hollander v. Members of the Bd. of Regents of the Univ. of N.Y.*, 524 Fed. App'x 727, 729 (2d Cir. 2013). “Generally, motions for reconsideration are not granted unless the moving party can point to controlling decisions or data that the court overlooked—matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.” *Nakshin v. Holder*, 360 Fed. App'x 192, 193 (2d Cir. 2010) (internal quotation marks and citation omitted). A motion for reconsideration may not be used “to enable a party to complete presenting his case after the court has ruled against him.” *Frietsch v. Refco, Inc.*, 56 F.3d 825, 828 (7th Cir. 1995).

The plaintiffs failed to satisfy the standards for reconsideration. They argue that the Court has subject matter jurisdiction to entertain the adversary complaint against Wells Fargo and U.S. Bank because both of those parties moved to foreclose on the plaintiffs' home. (Motion at 1.) But that argument does not alter the fact that, even if the plaintiffs prevailed against Wells Fargo and U.S. Bank, the outcome would have no effect on the Debtors' estates since neither Wells Fargo nor U.S. Bank is a Debtor, and neither party filed a proof of claim for indemnification related to this action. Thus, for the reasons explained in the Order, the Court lacks subject matter jurisdiction as to Wells Fargo and U.S. Bank. (*See* Order at 6–7.) The plaintiffs also discuss diversity jurisdiction (*see* Motion at 2), but the Court's previous order was not premised on any analysis of diversity jurisdiction.

Additionally, the plaintiffs ask the Court to reconsider its holding that the adversary complaint failed to state a claim against RFC upon which relief can be granted. (*See id.*) But the plaintiffs do not point to any errors of law, changes in controlling law, or new evidence. Rather, the plaintiffs reassert allegations from their complaint—namely that the corrected assignments of the plaintiffs' mortgage are “bogus and void.” (*Id.*) These conclusory assertions do not warrant

reconsideration. The Court already addressed these arguments as they relate to RFC in the Order, and the plaintiffs have provided nothing new to consider. (*See* Order at 9.)

Therefore, the Motion is **DENIED**.

Dated: February 14, 2014  
New York, New York

/s/Martin Glenn  
MARTIN GLENN  
United States Bankruptcy Judge