

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

BEN GYADU :  
 :  
 v. : CIVIL NO. 3:02CV75 (AHN)  
 :  
 BELLA VISTA CONDOS :

RULING AND ORDER

Plaintiff Ben Gyadu ("Gyadu") brings this action pro se and in forma pauperis against Bella Vista Condos ("Bella Vista") alleging, among other things, that the Connecticut State Appellate Court's dismissal of the plaintiff's actions violated his rights under the Fifth and Fourteenth Amendments of the United States Constitution. For the following reasons the court concludes, sua sponte, that dismissal of the instant suit is mandated by 28 § 1915(e)(2)(B).

BACKGROUND

Since July 12, 1994, Gyadu has filed at least twenty-one actions with this court. He has also filed multiple suits in the Connecticut state courts. In fact, the Second Circuit Court of Appeals currently bars him from filing any appeals without first obtaining permission from the circuit court.

On January 11, 2002, the court granted Gyadu leave pursuant to 28 U.S.C. § 1915(a) to proceed in forma pauperis in this action. The order granting that motion, however, indicated that Gyadu had filed the following cases with the

court: Gyadu v. Bella Vista Condos, 01 CV 1793 (WWE), Gyadu v. Bella Vista Condos, 01 CV 2282 (JCH), Bella Vista Condos v. Gyadu, 01 MC 123 (WIG), Bella Vista Condos v. Gyadu, 01 MC 366 (WIG), and Gyadu v. Bella Vista Condos, 02 CV 27 (GLG). All of these cases apparently relate to an allegedly fraudulent foreclosure that the defendant instituted against Gyadu.

#### DISCUSSION

Pursuant to 28 U.S.C. § 1915(e)(2)(B), "the court shall dismiss the case at any time if the court determines that . . . the action . . . is frivolous or malicious; . . . [or] fails to state a claim on which relief may be granted . . . ." 28 U.S.C.A §1915(e)(2)(B)(West Group 2003). An action is frivolous and may be dismissed when (1) the "factual contentions are clearly baseless," or (2) the claim is "based on an indisputably meritless legal theory." Nance v. Kelly, 912 F.2d 605, 605 (2d Cir. 1990) (quoting Neitzke v. Williams, 490 U.S. 319, 327 (1989)).

The court "construe[s] pro se complaints liberally and [applies] a more flexible standard in determining the sufficiency of a pro se complaint than [it] would in reviewing a pleading submitted by counsel." Platsky v. C.I.A., 953 F.2d 26, 28 (2d Cir. 1991). However, even liberally construing the complaint in this action, there are no allegations therein

that even remotely state a valid cause of action. Nonetheless, because the court cannot "rule out any possibility, however unlikely it might be, that an amended complaint would succeed in stating a claim," Gyadu will be afforded one opportunity to file an amended complaint within twenty days from the date of this order. See Cruz v. Gomez, 202 F.3d 593, 597 (2d Cir. 2000) (quoting Gomez v. USAA Federal Savings Bank, 171 F.3d 794, 796 (2d Cir. 1999)).

Gyadu is admonished, however, that further filing of frivolous lawsuits with this court may result in the imposition of sanctions. Such a measure is appropriately applied to litigants, such as Gyadu, who have a "clear pattern of abusing the litigation process by filing vexatious and frivolous complaints." See In re Sassower, 20 F.3d 42, 44 (2d Cir. Jud. Council 1994).

#### CONCLUSION

For the reasons set forth above, Gyadu's complaint [Doc. #2] is DISMISSED, with leave to file an amended complaint within twenty (20) days of the date of this order. It is certified that any appeal in forma pauperis from this order would not be taken in good faith within the meaning of 28 U.S.C. § 1925(a).

SO ORDERED this 31<sup>st</sup> day of March, 2003, at Bridgeport,

Connecticut.

---

Alan H. Nevas  
United States District Judge