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Developer Meruelo sues Ocean Bank over no construction loan

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Developer Richard Meruelo has filed a lawsuit against Miami-based Ocean Bank, seeking $9 million in damages after he and his family members were hit with foreclosure actions.

Meruelo's attorney, Michael Budwick of Meland Budwick, P.A., argues that Ocean Bank should not have given his client a $12.4 million mortgage to buy land in Golden Beach and then refused a construction loan. The site faces a foreclosure lawsuit with Meruelo named as a guarantor.

Budwick previously filed suit against Ocean Bank on behalf of the creditor's committee in condo convertor Juan Puig's $100 million bankruptcy filing. After alleging bank officials maintained strong ties to Puig and kept his companies afloat with questionable loans, Ocean Bank settled the case for $4.9 million.

Ocean Bank and other lenders are also appealing a $12 million judgment in homebuilder TOUSA's bankruptcy case.

Richard Meruelo's complaint said his family had more than $130 million in loans on multiple projects with the bank since 1984.

"The allegations in this lawsuit are patently ridiculous," Ocean Bank said. "To claim a bank would take millions of dollars in losses in some fanciful vendetta against a customer does not warrant a response."

Richard Meruelo is the son of Belinda Meruelo, the head of Miami Beach-based developer Merco Group. His brother, Homero F. Meruelo, is also a principal. All three Meruelos have been hit with numerous foreclosure lawsuits over the last two years.

According to the complaint, Ocean Bank financed much of the Meruelo family's real estate projects – to the point that the bank could not legally lend any more to them.

"As the relationship grew, Ocean Bank exerted increasing influence over the investment activities of the Meruelo family," the complaint states. "Over time, Ocean Bank exercised control over their investment because it could unilaterally restrict credit or refinance or extend terms of existing loans."

The complaint is trying to establish that Ocean Bank held so much influence over the Meruelo family that it became a fiduciary relationship, said Timothy Kingcade, a bankruptcy attorney with Miami-based Kingcade & Garcia, who isn't involved in the case. While it's rare that a borrower-lender relationship is characterized that way, a 1986 ruling by theFlorida Supreme Court in Hooper v. Barnett Bank established that a bank can be liable for giving a borrower bad business advice in a fiduciary adviser role, he said.

"This will end up, unfortunately for the bank, in front of a jury and they will determine whether the bank created this problem," Kingcade said.

In 2006, Richard Meruelo told Ocean Bank about his plan to buy two lots in Golden Beach, divide them into three lots and build beachfront homes. After showing the site to senior Ocean Bank executives, Meruelo's Golden Merc bought the site for $17 million, including a $12.35 million loan from Ocean Bank the complaint says. Before the deal, the bank agreed to fund future construction costs estimated at $12 million, according to the complaint.

> "If the bank had told him it wouldn't make the construction loan, Richard never would have closed on the loan," Budwick said.

The complaint said the loan violated Ocean Bank's internal policies, which require that construction financing be in place before lending on vacant land.

In May 2008, Ocean Bank signed a modified cease and desist order with regulators that severely restricted its construction lending and ordered it to get tougher on problem loans. Like most banks that sign such orders, it was prevented from extending or renewing credit to borrowers with troubled loans.

THE DETAILS

Litigation involving the Meruelo family and Merco Group:

• Ocean Bank won a $49.1 million foreclosure judgment against Merco Group at Aventura and the Terzetto residential project. The bank settled its personal guarantee with Homero F. Meruelo.

• Richard Meruelo and his 3720 Collins lost a $3.2 million foreclosure lawsuit to Collins Beachfront over a damaged, 94-unit apartment complex in Miami Beach. Ocean Bank also sued it over an $8.8 million mortgage.

• Ocean Bank filed a foreclosure lawsuit against Home R Us Development III and Richard Meruelo over a $4.5 million mortgage on two Miami Beach homes. The homes were sold at a distressed price.

• Ocean Bank won a $2.7 million foreclosure judgment against Merco Group at Palm Beach Lakes over a stalled condo project.

• Eastern Financial Florida Credit Union, now part of Space Coast Credit Union, won a $37 million foreclosure judgment against Homero Meruelo, Belinda Meruelo and their Merco Group of the Palm Beaches over a stalled condo project.

• Caja de Ahorros De Galicia filed a $38.7 million foreclosure lawsuit against Merco Group at MGI Hotels and Homero Meruelo over the shuttered Grand Bay Hotel in Coconut Grove.

• U.S. Century Bank filed a $7.5 million foreclosure action against Merco Group at MGI Residences and Homero Meruelo over an office building in Coconut Grove.

• U.S. Century Bank filed a $13.3 million foreclosure lawsuit against Meruelo Pomona and Belinda Meruelo over a home in Golden Beach.

• Regions Bank filed a foreclosure lawsuit against Homero Meruelo and his Indian Creek Holdings and 67th Street Holdings over a $14 million mortgage for a condo project in Miami Beach.

• DI-FL No. 1 filed a $2.2 million foreclosure against Belinda Meruelo, Homero Meruelo

and their Merco Group Properties over units in the Akoya Condominium in Miami Beach.

• Richard Meruelo was hit with 10 foreclosure lawsuits over units in the Seashore Club condo in Miami Beach and eight foreclosure lawsuits for units in the Miami Beach Club condo-hotel.

• Chapter 11 bankruptcy reorganization of Los Angeles-based Meruelo Maddux Properties (OTCBB: MMPIQ), with Richard Meruelo as chairman and CEO.