

NOV 23 2016

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ELIZABETH SHERBOW; THEODORE
SHERBOW,

Plaintiffs-Appellants,

v.

NORTHWEST TRUSTEE SERVICES,
INC.; et al.,

Defendants-Appellees.

No. 16-35462

D.C. No. 1:16-cv-00656-MO

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael W. Mosman, Chief Judge, Presiding

Submitted November 16, 2016**

Before: LEAVY, BERZON, and MURGUIA, Circuit Judges.

Elizabeth Sherbow and Theodore Sherbow appeal pro se from the district court's order denying their motion for a preliminary injunction to enjoin the

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

nonjudicial foreclosure sale of their real property. We have jurisdiction under 28 U.S.C. § 1292(a)(1). We dismiss this appeal as moot.

After the Sherbows filed this appeal, the subject property was sold at a nonjudicial foreclosure sale and the district court issued a final judgment dismissing the underlying action against all defendants. Accordingly, this court cannot grant the requested relief and the appeal is moot. *See Vegas Diamond Props., LLC v. FDIC*, 669 F.3d 933, 936 (9th Cir. 2012) (“[T]he sale of the real properties prevents this Court from granting the requested relief and accordingly renders this appeal moot.”); *see also Doe & Assocs. Law Offices v. Napolitano*, 252 F.3d 1026, 1029 (9th Cir. 2001) (dismissal of underlying action renders moot the district court’s denial of a preliminary injunctive relief).

Appellees’ July 28, 2016 motion for judicial notice and October 7, 2016 motion to strike are granted.

The Sherbow’s pending motions are denied.

The Clerk shall forward the Sherbows’ August 15, 2016 supplemental notice of appeal to the district court for filing as a notice of appeal of the final judgment as provided by Fed. R. App. P. 4(d).

DISMISSED.