

Decision No. 75231**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GLENDALE FEDERAL SAVINGS AND
LOAN ASSOCIATION, a United States
corporation,

Complainant,

vs.

Case No. 8850

EDDIE J. MILLIGAN, NANCY J.
MILLIGAN, EDWARD F. MILLIGAN,
JEAN E. MILLIGAN and CALIFORNIA
CITIES WATER CO.,

Defendants.

ORDER OF DISMISSAL

The complaint of Glendale Federal Savings and Loan Association, filed September 27, 1968, names as defendants four individuals (Milligans) and California Cities Water Company, a public utility. In accordance with procedural Rule 12, copies were mailed to defendants by way of information, and defendant utility submitted a statement of asserted defects.

The complaint alleges that "defendants" caused a water distribution system to be constructed to serve a tract, by installing a pipe line to the tract from existing facilities of the utility, but did not install meters. It is alleged that "defendants" caused houses to be constructed and sold upon the representation that an adequate water supply existed. Complainant alleges that "defendants Milligans" did not comply with provisions of the Business and Professions Code and Civil Code applicable to the subdivision and sale of property.

It is alleged that complainant made a loan upon the security of a lot in the tract to two of the defendants Milligan, that the

lot was later sold to complainant under a power of sale in the deed of trust securing the loan, that thereafter "defendants" interfered with the pipe line furnishing water to "complainant's house", and that complainant has been without water to the property, with the result that such property cannot be resold. Complainant alleges that "defendants Milligans" are a public utility.

Complainant seeks an order that "defendants Milligans" be declared a public utility, that "defendants" be enjoined from interfering with the supply of water to the property, and that "defendants" be compelled to remove obstructions of the water supply and connect and repair any broken or severed utilities.

The utility's statement of asserted defects suggests the complaint fails to set forth any act of commission or omission by defendant utility, in violation or claimed violation of any provision or law or Commission order or rule. Defendant utility asks that the Commission officially notice that the particular tract lies outside of the dedicated service area defendant utility is authorized to serve, and that such defendant, under the provisions of Decision No. 66739 in Application No. 45254 [62 Cal. P.U.C. 315], is prohibited from extending its facilities outside of such area without specific Commission authorization.

A copy of the statement of asserted defects was mailed to complainant on October 9, 1968, with the request that complainant advise whether it wished to file an amended complaint, to request dismissal without prejudice, or to rely on the present pleading.

Thereafter defendants Milligans submitted a statement of asserted defects, suggesting the complaint failed to comply with the Commission's procedural rules, and asking that notice be taken of two Superior Court actions involving the same parties. In one of these actions, filed by complainant here against the same defendants, plaintiff dismissed as to defendant utility, and a preliminary injunction against the one defendant Milligan there

served was denied. The other court action is by defendants Milligan against complainant, and challenges the trustee's sale mentioned in the complaint here. A copy of the second statement of asserted defects was also sent to complainant.

By letter of October 16, 1968 counsel advised that complainant would file an amended complaint shortly, but would dismiss any claim against defendant California Cities Water Company. No amended complaint has been filed.

Case No. 8850 is dismissed without prejudice.

Dated at San Francisco, California, this 21st day of JANUARY, 1969.

William Synoux, Jr.
 President

Augusta

David P. Moussey

William

Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.