


ORDERED.

Dated: February 17, 2017



Karen S. Jennemann
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
www.flmb.uscourts.gov

In re)	
)	
JAIME RAMIREZ and ALICIA V.)	Case No. 6:16-bk-04417-KSJ
CASTILLO,)	Chapter 7
)	
Debtors.)	
)	

**ORDER DENYING MOTION TO SET
ASIDE ORDER ON MOTION FOR RELIEF FROM STAY**

Creditor, Cynthia Mannella, obtained relief from the stay to proceed *in rem* in state court to collect a judgment encumbering real property not owned by Debtors.¹ Debtors² opposed the relief arguing the state court lacked jurisdiction to determine the real property issues.³ I rejected this argument and modified the automatic stay to allow the parties to return to state court to raise issues best resolved by the state court. Apparently, the Debtors were unsuccessful on their return

¹ The Motion for Relief from Stay was filed on July 20, 2016. Doc. No. 9. An order granting the relief was entered on September 23, 2016. Doc. Nos. 20 and 21.

² The Court will refer to Jaime Ramirez as Debtor Ramirez and Alicia Ramirez a/k/a Alicia Castillo as Debtor Castillo. Collectively, the Court will refer to them as the Debtors.

³ Doc. No. 12.

to state court and now ask me to reconsider my prior order lifting the automatic stay.⁴ I decline and will deny the motion.

Debtors allegedly previously owned two parcels of real estate: 15 N. Hudson Street, Orlando, FL 32835 and 19 N. Hudson Street, Orlando, FL 32835 (the “Parcels”).⁵ Debtors sold the Parcels to Debtor Ramirez’s brother in 2009.⁶ Nothing was recorded in the public records evidencing the sale.⁷ In June 2014, Debtor Ramirez later recorded a quit-claim deed in the official records of Orange County, Florida that purported to transfer the Parcels to his nephews.⁸

Earlier in 2014, Mannella obtained a judgment of approximately \$2,700 plus attorney’s fees and costs⁹ against both of the Debtors and their company, RAMCAS, for failing to properly install an appliance.¹⁰ Mannella promptly recorded the judgment in the official records of Orange County, Florida.¹¹

Mannella then sought to collect on the judgment.¹² She got a state court order allowing her to sell the Parcels privately.¹³ In its ruling, the state court held that, because the 2009 sale was never recorded in the public records, Mannella, who had recorded her judgment first, had superior legal rights to the Parcels. The state court also held that the 2014 quit-claim deed to Debtor Ramirez’s nephews was a legal nullity.¹⁴ The state court then outlined how the sale proceeds would be paid,

⁴ Doc. No. 23. Creditor Mannella opposes the motion for reconsideration. Doc. No. 24. A hearing was held on October 20, 2016.

⁵ Doc. No. 9-2, ¶¶ 4, 5.

⁶ Doc. No. 9-2, ¶ 6.

⁷ Doc. No. 9-2, ¶ 7.

⁸ Doc. No. 9-2, ¶ 9.

⁹ The attorney’s fees and costs awarded in the final judgment were about \$19,000. Doc. No. 9-1, ¶ 15.

¹⁰ Doc. No. 9-1, ¶¶ 5-7, 11-12. The judgment was filed in open court on June 23, 2015.

¹¹ Doc. No. 9-2, ¶ 2.

¹² Doc. No. 9-2, P. 1.

¹³ Doc. No. 9-2, ¶ 4.

¹⁴ Doc. No. 9-2, ¶ 10.

awarded additional attorney's fees,¹⁵ and reserved jurisdiction to enforce the judgment.¹⁶ Debtors claim the state court lacked jurisdiction to make these findings or to enter these orders.

Shortly after the final judgment was entered, the Debtors filed their Chapter 7 bankruptcy case.¹⁷ Mannella filed her Motion for Relief from Stay requesting permission to proceed with the sale of the Parcels.¹⁸ Debtors objected to the Motion contesting the jurisdiction of the state court.¹⁹ I granted Mannella relief from the stay to allow her to complete the sales finding that, because the Debtors objected to the holding of the state court, the Debtors needed to return to state court to raise their legal issues.²⁰

Almost immediately, the Debtors moved for reconsideration and asked me to reimpose the stay arguing the state court would do nothing to "rectify the injustice."²¹ Mannella opposes the Debtors' motion.²² The Court held a hearing on the Motion to Set Aside and took the matter under advisement.²³

Reconsideration of an order under Rule 59²⁴ "is an extraordinary remedy to be employed sparingly" due to interests in finality and conservation of judicial resources.²⁵ "The function of a motion to alter or amend a judgment is not to serve as a vehicle to relitigate old matters or present the case under a new legal theory ... [or] to give the moving party another 'bite at the apple' by permitting the arguing of issues and procedures that could and should have been raised

¹⁵ Doc. No. 9-2, ¶ 13.

¹⁶ Doc. No. 9-2, ¶ 16.

¹⁷ Doc. No. 1. The case was filed on July 1, 2016.

¹⁸ Doc. No. 9.

¹⁹ Doc. No. 12.

²⁰ Doc. No. 21.

²¹ Doc. No. 23.

²² Doc. No. 24.

²³ Doc. No. 26.

²⁴ Federal Rule of Civil Procedure 59 is incorporated into the Bankruptcy Code by Federal Rule of Bankruptcy Procedure 9023. *See In re Strunk*, No. 8:07-BK-7297-KRM, 2016 WL 675819, at *3 (Bankr. M.D. Fla. Feb. 18, 2016) (citing *Hatfield v. Bd. of Cty. Comm'rs for Converse Cty.*, 52 F.3d 858, 861 (10th Cir. 1995) (explaining the difference between a Motion construed under Rule 59 and a Motion construed under Rule 60)).

prior to judgment.”²⁶ “A trial court's determination as to whether grounds exist for the granting of a Rule 59(e) motion is held to an ‘abuse of discretion’ standard.”²⁷ Where Courts have granted relief under Rule 59(e), they act to: (1) account for an intervening change in controlling law, (2) consider newly available evidence, or (3) correct clear error or prevent manifest injustice.²⁸

Debtors make the exact same argument they raised earlier in opposition to Mannella’s motion for stay relief, i.e., that the state court lacked jurisdiction to order the sale of the Parcels. Debtors have raised no intervening change in controlling law, no newly available evidence, no clear error, and no manifest injustice that would justify reconsideration of its order. As the Court stated previously, Debtors may have recourse in state court. This Court will not and should not act as an appellate court to the final judgments entered by the state court. The issues of whether the state court had jurisdiction to order the sale are state law issues best left to the expertise of the state court that handled the litigation for the last three years. Allowing the parties to continue this dispute in the federal bankruptcy forum would usurp the state court’s authority over its own state law issues and would turn the bankruptcy court into a “last chance” forum to resolve state court disputes. This Court will not allow that.

Since the time the Debtors’ motion for reconsideration was filed, the Chapter 7 Trustee has fully administered the case. Debtors have received their discharges.²⁹ The case is ready to close,

²⁵ *Mathis v. United States (In re Mathis)*, 312 B.R. 912, 914 (Bankr. S.D. Fla. 2004) (quoting *Sussman v. Salem, Saxon & Nielsen, P.A.*, 153 F.R.D. 689, 694 (M.D. Fla. 1994)) (internal quotation marks omitted).

²⁶ *In re Mathis*, 312 B.R. at 914 (quoting *In re Halko*, 203 B.R. 668, 671-72 (Bankr. N.D. Ill. 1996)) (citations omitted).

²⁷ *In re Mathis*, 312 B.R. at 914 (citing *Am. Home Assurance Co. v. Glenn Estess & Assocs.*, 763 F.2d 1237, 1238-39 (11th Cir. 1985) (“The decision to alter or amend judgment is committed to the sound discretion of the [trial] judge and will not be overturned on appeal absent an abuse of discretion.”)).

²⁸ *In re Mathis*, 312 B.R. at 914 (citations omitted).

²⁹ Doc. No. 30.

which will terminate the automatic stay by operation of law.³⁰ Debtors' motion is largely moot as no stay will exist.

Accordingly, it is

ORDERED:

1. The Motion to Set Aside (Doc. No. 23) is **DENIED**.
2. The Clerk is directed to close this case.

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Attorney, Jon Oden, is directed to serve a copy of this order on all interested parties and file a proof of service within three days of entry of the order.

³⁰ 11 U.S.C. § 362(c)(2) (2012).