


ORDERED.

Dated: March 27, 2019

  
Cynthia C. Jackson  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION  
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In re:

Chevelle C Teague

Chapter 7

Case No. 6:18-bk-04288-CCJ

Debtor.

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ORDER GRANTING MOTION FOR RELIEF FROM STAY

This case came before the Court after a hearing to consider the Motion by Creditor, Dove Investments Corp. (the “Creditor”) for Relief from Stay (Doc. No. 9; the “Motion”). The Court having considered the record and argument of counsel, grants the Motion for the reasons stated below.

On July 17, 2018, the Debtor filed a Voluntary Petition for relief under Chapter 7 of the Bankruptcy Code. By the bankruptcy schedules, the Debtor discloses an interest in real property located at 206 Sifford Lane, Orlando Florida (the “Property”) with a value of approximately \$3,800.<sup>1</sup> The Debtor does not claim an exemption for the Property. The Creditor has filed a claim for approximately \$39,000, secured by a pre-petition judgment lien that encumbers the Property

(Claim No. 1; the “Secured Claim”).<sup>2</sup> On October 23, 2018, the Court entered an order granting the Debtor a discharge under Section 727 of the Bankruptcy Code.

On October 24, 2018, the Chapter 7 Trustee filed a Report and Notice of Intent to Sell Non-Exempt Property (Doc. No. 21; the “Notice”). By the Notice, the Trustee reports that she intends to sell to the Debtor for \$2,500 the estate’s interest in the Property. The Trustee discloses that “the Property is being sold AS-IS, WHERE-IS, WITH ALL FAULTS and DEFECTS THEREIN, **and subject to all liens and encumbrances.**”<sup>3</sup> The Notice contains a negative notice legend giving interested parties 21 days to object to the proposed sale. The Notice provides that “[t]his sale will not become final until after the expiration of the 21-day objection period set forth below and/or a favorable disposition of any objections to the sale.”<sup>4</sup> The record reflects that the 21 day deadline to object to the proposed sale has passed, and interested parties have not objected to the sale.

By the Motion, the Creditor argues that its Secured Claim is not adequately protected, and as a result, cause exists to lift the automatic stay to allow the Creditor to enforce its lien rights against the Property under Section 362(d)(1) of the Bankruptcy Code. The Chapter 7 Trustee has not filed a response opposing the Motion. The Debtor, however, has filed a response opposing the Motion.<sup>5</sup>

Section 362(c) of the Bankruptcy Code provides that with certain exceptions not applicable here, the stay of an act against property of the estate under Section 362(a) continues until such property is no longer property of the estate.<sup>6</sup> Once a trustee sells or relinquishes property, the property ceases to belong to the estate.<sup>7</sup> The Court finds that the Trustee’s sale of the estate’s interest in the Property to the Debtor (subject to the Secured Claim) is now final. Because the Property is no longer property of the estate, the automatic stay under Section 362(a) is not in effect as to the Property pursuant to Section 362(c) of the Bankruptcy Code.

And to the extent that the Property is now property of the Debtor, Section 362(c) of the Bankruptcy Codes provides that with certain exceptions not applicable here, the stay of any other act under Section 362(a) “continues until the earliest of -... (C) if the case is a case under chapter 7 of this title concerning an individual... the time a discharge is granted or denied.”<sup>8</sup> Because the Debtor is an individual in a Chapter 7 bankruptcy case, and the Court has already granted a discharge, the automatic stay of any other act under Section 362(a) is not in effect as to the Property pursuant to Section 362(c) of the Bankruptcy Code.

For the reasons stated above, it is ORDERED:

1. The Motion (Doc. No. 9) is granted.
2. The automatic stay under Section 362(a) is no longer in effect as to the Property pursuant to Section 362(c) of the Bankruptcy Code.
3. The Creditor may take any and all steps necessary to exercise any and all rights it may have in the Property, to gain possession of the Property and to have further *in rem* relief as is just, but the Creditor shall not obtain *in personam* relief against the Debtor.

Attorney Mitchell A. Dinkin is directed to serve a copy of this order on interested parties and file a proof of service within 3 days of entry of the order.

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<sup>1</sup> Doc. No. 1. The Debtor also discloses that the value of the entire Property is approximately \$38,000.

<sup>2</sup> At the hearing, the Debtor conceded that the Creditor holds a pre-petition judgment lien on the Property.

<sup>3</sup> Doc. No. 21, par. 4 (internal quotations omitted )(emphasis added).

<sup>4</sup> Doc. No. 21, pg. 3.

<sup>5</sup> Doc. No. 10.

<sup>6</sup> See 11 U.S.C. § 362(c)(1).

<sup>7</sup> See *In re Parrish*, 171 B.R. 138, 141 (Bankr. M.D. Fla. 1994)(Funk, J.).

<sup>8</sup> 11 U.S.C. § 362(c)(2).