

ORDERED.

Dated: October 05, 2022


Caryl E. Delano
Chief United States Bankruptcy Judge

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

In re:

Case No. 2:17-bk-06512-FMD
Chapter 7

Martin J. McCarthy and
Laura McCarthy,

Debtors.

_____ /

**ORDER ON SUBJECT MATTER JURISDICTION FOLLOWING
REMAND OF DEBTORS' OBJECTION TO CLAIM NO. 5-3 OF
RAVENWOOD HOMES, LLC, AND SCHEDULING STATUS
CONFERENCE REGARDING ISSUES TO BE RESOLVED ON REMAND**

On August 25, 2022, the Court conducted a status conference to address the issue of subject matter jurisdiction in connection with the District Court's reversal and remand (the "Remand Order")¹ of this Court's ruling (the "Bankruptcy Court

¹ Doc. No. 209.

Order”).² The Bankruptcy Court Order overruled Debtors’ objection (the “Objection”) to the claim (the “Claim”) filed by Ravenwood Homes, LLC (“Ravenwood”). The issue of subject matter jurisdiction arises because Debtors converted their Chapter 13 case to a Chapter 7 case after the Court entered the Bankruptcy Court Order. For the reasons that follow, the Court will exercise its discretion to retain jurisdiction for the purpose of ruling on the issues remanded by the District Court.

As explained to the parties at the August 25, 2022 status conference, the Court has a duty to consider subject matter jurisdiction throughout a bankruptcy case.³ Under 28 U.S.C. § 1334(b), United States district courts have original but not exclusive jurisdiction of all civil proceedings “arising under” the Bankruptcy Code, or “arising in” or “related to” a bankruptcy case.⁴ In the Middle District of Florida, the District Court has referred all proceedings arising under, arising in, or related to bankruptcy cases to the bankruptcy judges of the Middle District.⁵

² Doc. No. 98.

³ *In re Wezner*, 470 B.R. 344, 349-50 (Bankr. E.D. Pa. 2012) (“Although the parties did not raise the issue of whether this Court has subject matter jurisdiction over the claims asserted by the Third-Party Complaint, this Court is obligated to address the issue.”); *In re Dierkes*, 2007 WL 5734794, at *6 (Bankr. N.D. Ga. March 22, 2007).

⁴ 28 U.S.C. § 1334(b).

⁵ See *In re Standing Order of Reference Cases arising Under Title 11, United States Code*, Case No. 6:12-mc-26-ACC.

Here, the Claim neither “arises under” the Bankruptcy Code nor “arises in” a case under the Bankruptcy Code. Rather, the Claim is a state law claim based on Ravenwood’s construction of Debtors’ home under a construction contract between the parties.⁶ Therefore, under § 1334(b), this Court has jurisdiction to adjudicate the Claim only if it is “related to” Debtors’ bankruptcy case. The test for whether a claim is “related to” a bankruptcy case is whether the outcome of the proceeding “could conceivably have any effect on the estate being administered in bankruptcy,” including “the alteration of the debtor’s rights, liabilities, options, or freedom of action, as well as any impact on the handling or administration of the debtor’s estate.”⁷

During the time that Debtors’ bankruptcy case was pending as a Chapter 13 case, the Claim, the Objection, and the Bankruptcy Court Order all “related to” Debtors’ bankruptcy case because Debtors filed a Chapter 13 Plan that proposed to treat Ravenwood’s claim as an unsecured claim,⁸ and the allowance or disallowance of the Claim would have affected confirmation of the Plan and the distributions to creditors under the Plan.

⁶ Ravenwood initially filed its claim against Debtors in a state court foreclosure case that preceded Debtors’ bankruptcy filing (Doc. No. 88-4, pp. 7-10).

⁷ *In re Rolsafe International, LLC*, 477 B.R. 884, 894-95 (Bankr. M.D. Fla. 2012) (citing *In re Lemco Gypsum, Inc.*, 910 F.2d 784, 788 (11th Cir. 1990), and *Pacor, Inc. v. Higgins*, 743 F.2d 984, 994 (3d Cir. 1984)).

⁸ Doc. No. 12.

However, after entry of the Bankruptcy Court Order and while Debtors' appeal was pending in the District Court, Debtors converted their Chapter 13 case to a Chapter 7 case.⁹ They received a Chapter 7 discharge, and the Chapter 7 Trustee administered the case as a "no-asset" case with no distribution to creditors.¹⁰ Under these circumstances, the outcome of the Objection to the Claim will have no effect on the bankruptcy estate.

At the August 25, 2022 status conference, the Court advised the parties that at least one bankruptcy court has held, under similar circumstances, that the conversion of a bankruptcy case to a Chapter 7 case deprived the bankruptcy court of subject matter jurisdiction over a dispute between the debtor and a claimant.¹¹ At the conclusion of the status conference, the Court afforded the parties an opportunity to file legal memoranda to address the issue of subject matter jurisdiction. The parties have submitted their briefs.¹²

After further consideration, the Court concludes that even though the resolution of the Objection will have no effect on the bankruptcy estate, the Court

⁹ Doc. Nos. 127, 128.

¹⁰ See Doc. No. 164 and Chapter 7 Trustee's Report of No Distribution dated April 27, 2020.

¹¹ *In re Dierkes*, 2007 WL 5734794 (Bankr. N.D. Ga. March 22, 2007). The Court also referred the parties to *In re Import & Mini Car Parts, Ltd., Inc.*, 200 B.R. 857 (Bankr. N.D. Ind. 1996), in which the Bankruptcy Court ruled that it no longer had jurisdiction over a collection action after the Chapter 7 trustee assigned the action to a trustee for the benefit of administrative creditors.

¹² Doc. Nos. 219, 220.

did not automatically lose jurisdiction when Debtors converted their Chapter 13 case to a Chapter 7 case.

In *In re Morris*,¹³ the Eleventh Circuit Court of Appeals held that a bankruptcy court's initial "related-to" jurisdiction over an adversary proceeding – or, in this case, a contested matter – is not automatically lost if subsequent events occur that reduce or eliminate the litigation's impact on the estate.¹⁴ "That means that the conceivable effect on the estate is ascertained at the time the adversary complaint [or, as here, the contested matter] is filed – not at some later time when subsequent events have transpired which prevent the conceivable effect from actually materializing."¹⁵

In addition, if a proceeding or contested matter will no longer have an effect on the bankruptcy estate because of a subsequent event, such as the conversion of the main bankruptcy case, the bankruptcy court has discretion to decide whether to retain its jurisdiction and rule in the proceeding or to relinquish jurisdiction and allow the issues to be adjudicated in another forum, such as a state court.¹⁶

In determining whether to exercise its discretion to retain jurisdiction and rule on the issues, courts generally consider three factors: "(i) judicial economy; (ii)

¹³ 950 F.2d 1531, 1534 (11th Cir. 1992).

¹⁴ *Al-Rayes v. Willingham*, 2016 WL 9527956, at *3 (M.D. Fla. March 11, 2016) (The "jurisdiction of a bankruptcy court is invoked at the time an adversary complaint is filed.").

¹⁵ *In re Rolsafe International, LLC*, 477 B.R. 884 at 895.

¹⁶ *In re Morris*, 950 F.2d at 1534.

fairness and convenience to the litigants; and (iii) the degree of difficulty of the related legal issues involved.”¹⁷

Here, the first two factors weigh heavily in favor of the Court’s retaining jurisdiction to resolve the Claim and the Objection.¹⁸ Debtors originally filed the Objection in 2018, and the dispute between the parties has been pending in this Court, and the District Court on appeal, for more than four years. Debtors and Ravenwood have devoted substantial effort and expense to the litigation, including a March 2019 trial and Debtors’ appeal of the Bankruptcy Court Order. The Court concludes that it would be costly and time-consuming for the parties to relitigate the Claim and the Objection in state court and inefficient for the state court to educate itself on matters with which this Court is already familiar. Considerations of judicial economy and fairness and convenience to the parties favor the retention of jurisdiction by this Court.

In addition, objections to claims and the determination of liens are the types of matters generally handled in bankruptcy cases. Therefore, the Court finds that the third factor to consider in exercising its discretion—the degree of difficulty of the legal issues—weighs in favor of the Court’s retaining jurisdiction over the Claim and the Objection.

¹⁷ *In re Rolsafe International, LLC*, 477 B.R. at 896 (citing *In re Morris*, 950 F.2d at 1535).

¹⁸ *Id.* at 898.

In conclusion, even though the resolution of the Claim and the Objection will have no effect on the Chapter 7 estate, the Court will exercise its discretion to retain jurisdiction for the purpose of ruling on the issues remanded by the District Court.

Therefore, the Court will schedule a further status conference to address whether the issues identified in the Remand Order may be determined on remand based upon the existing record or whether a further evidentiary hearing is needed.

Having reviewed the Remand Order, the Court believes that the outstanding issues are:

1. Is the property located at 359 Japura Street, Punta Gorda, Florida, Debtors' exempt homestead?¹⁹
2. What was the date on which Ravenwood last furnished labor, services, or material under the Construction Agreement with Debtors?²⁰
3. Were Debtors unjustly enriched by Ravenwood's services under Florida law?²¹
4. Did Debtors use Ravenwood's Conditional Release to refinance their construction loan, or were they able to refinance the construction loan because more than one year had passed since the construction project was completed?²²

¹⁹ Doc. No. 209, p. 13.

²⁰ Doc. No. 209, pp. 10, 15.

²¹ Doc. No. 209, p. 14.

²² Doc. No. 209, pp. 11-12.

5. Did Ravenwood timely assert its claim for an equitable lien under § 95.11(5)(b) of the Florida Statutes?²³ And if so, to establish an equitable lien on homestead property under Florida law, is Ravenwood required to show that Debtors engaged in fraud or egregious conduct, or is it sufficient that Debtors contracted for and were unjustly enriched by Ravenwood's services on the property?²⁴

Accordingly, it is

ORDERED that the Court will conduct a status conference on **Thursday, October 27, 2022, at 11:00 a.m.** Unless otherwise notified, Judge Delano will conduct all hearings in Fort Myers Division cases by Zoom from Courtroom 9A, Sam M. Gibbons United States Courthouse, 801 North Florida Avenue, Tampa, Florida, and will enter a separate Order Establishing Procedures for Video Hearings. Parties may attend the hearing by telephone, by Zoom, or in person in Courtroom 9A. Parties permitted to appear by telephone must arrange a telephonic appearance through Court Call (866-582-6878) by 5:00 p.m. the business day preceding the hearing. **UNLESS INSTRUCTED OTHERWISE, PARTIES MAY NOT APPEAR IN PERSON IN THE FORT MYERS COURTHOUSE.**

The Clerk's office is directed to serve a copy of this order on interested parties via CM/ECF and upon Debtors by U.S. Mail.

²³ Doc. No. 209, pp. 14-15.

²⁴ Doc. No. 209, pp. 7-8, 13-14.