

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In re:

BARRY E. BABICH and
EILEEN SMITH BABICH,

Case No. 6:09-bk-12843-ABB
Chapter 7

Debtors.

ORDER

This matter came before the Court on the Motion to Strip Lien of SunTrust Bank Central Florida (Doc. No. 23) filed by the Debtors Barry E. Babich and Eileen Smith Babich seeking to avoid a junior mortgage lien held by SunTrust Bank Central Florida (“SunTrust”) and to have SunTrust’s claim deemed unsecured. A hearing was held on May 27, 2010 at which Mr. Babich and Debtors’ counsel appeared. Debtors, pursuant to the Court’s directive, filed a post-hearing memorandum (Doc. No. 30). SunTrust was served with the Motion and notice of the hearing, but has not filed a response or appeared.

Debtors filed this Chapter 7 case on August 31, 2009. Their homestead property located at 626 Lakespur Lane, Altamonte Springs, Florida 32714 (“Property”) is encumbered by a first-priority mortgage held by Midland Mortgage Company in the amount of approximately \$237,119.00 and a second-priority mortgage held by SunTrust in the amount of approximately \$33,038.00. Debtors value the Property at \$145,000.00. The Chapter 7 Trustee has declared this case a no asset case.

Debtors assert SunTrust's junior mortgage is wholly unsecured and can be avoided pursuant to 11 U.S.C. Section 506(a). Lien strip-off is not available in Chapter 7. In re Hoffman, Case No. 6:09-bk-18839-KSJ (Bankr. M.D. Fla. July 28, 2010).

Accordingly, it is

ORDERED, ADJUDGED and DECREED that the Debtors' Motion (Doc. No. 23) is hereby **DENIED**.

Dated this 2nd day of August, 2010.

/s/ Arthur B. Briskman
ARTHUR B. BRISKMAN
United States Bankruptcy Judge