IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF ARIZONA

In re: TRINIDAD F. SALDANA and MARGARITA SALDANA, Debtor(s). TATTIE LAND LIMITED PARTNERSHIP, Movant, v. TRINIDAD F. SALDANA and MARGARITA SALDANA; RUSSELL A. BROWN, Chapter 13 Trustee, Respondents.	Chapter 13 No. 2:04-bk-18490-JMM **MEMORANDUM DECISION RE: MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

On January 13, 2005, this court held a hearing on Tattie Land Limited Partnership's Motion for Relief from the Automatic Stay. This court took the matter under advisement and after reviewing the pleadings and the file, this court now rules.

FACTS

On July 31, 1987, Edmund Miller and Mary Ann Miller (the "Millers"), as sellers, entered into an agreement for the sale of real property (the "Agreement") located at 2021 North 48th Lane in Phoenix, Arizona (the "real property") with Trinidad and Margarita Saldana ("Debtors"). Pursuant to the terms of the Agreement, Debtors were to pay $59,500 for the real property. Debtors paid $1,500 prior to closing, which left a balance of $58,000 to be paid over a period of 20 years, commencing August 11, 1978, until August 11, 2007. Interest was to be charged at a rate of 8-1/2% per annum.

The monthly installments under the Agreement were $503.34 per month. Stewart Title and Trust of Phoenix ("Stewart Title") was to act as the collection agent. On October 13, 1999, Mary Ann Miller, a widow, conveyed her interest under a Grantor's Deed and Assignment to Tattie Land Limited Partnership ("Tattie Land").

Tattie Land claims that Debtors failed to make their proper monthly payment due for December 31, 2002 and were therefore in default under the Agreement. Debtors allege that on December 31, 2002, they made a payment in the amount of $2,596.32 for the months of September through December 2002.

Tattie Land asserts that Stewart Title sent Debtors a notice requiring strict performance of the Agreement on April 18, 2003. Debtors deny that they received this notice. Tattie Land asserts that on February 24, 2004, Stewart Title sent the Debtors a Notice of Election to Forfeit under the Agreement. According to Tattie Land, pursuant to the Notice of Election to Default, all the right, title and interest of the Debtors in the real property would be forfeited on March 18, 2004, if the Debtors did not cure the default. Debtors failed to cure the default on or before March 18, 2004. On March 19, 2004, Stewart Title recorded an Affidavit of Completion of Forfeiture. Debtors have continued to live in the real property without making any payments.

On March 22, 2004, Debtors filed a lawsuit in Maricopa County Superior Court seeking to quiet title in the real property. Thereafter, Tattie Land filed a Motion for Summary Judgment and Judge Reinstein entered a Minute Entry determining that Debtors were in default under the Agreement and that Tattie Land was entitled to judgment of forfeiture. Debtors filed their chapter 13 bankruptcy petition that same day.

ISSUE

Whether the Rooker-Feldman Doctrine applies, so that the Maricopa County Superior Court Minute Entry granting Tattie Land its Judgment of Forfeiture should be recognized in this court and

the automatic stay vacated, allowing a final judgment to be entered?

DISCUSSION

The *Rooker-Feldman* Doctrine

The *Rooker-Feldman* doctrine provides that the United States Supreme Court is the only federal court that may review an issue previously determined or "inextricably intertwined" with a previous action in state court between the same parties. See Rooker v. Fid. Trust Co., 263 U.S. 413, 44 S.Ct. 149 (1923); Dist. of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 103 S.Ct. 1303 (1983). The *Rooker-Feldman* doctrine applies regardless of whether the state court ruling was right or wrong. Rooker, 263 at 415, 44 S.Ct. at 150.

However, when a matter comes within the bankruptcy court's exclusive jurisdiction, general preclusion rules and the *Rooker-Feldman* doctrine do not apply. Huse v. Huse-Sporsem, A.S. (In re Birting Fisheries, Inc.), 300 B.R. 489 (9th Cir. BAP 2003), citing Kalb v. Feuerstein, 308 U.S. 433, 438-39, 60 S.Ct. 343, 84 L.Ed. 370 (1940) ("Congress, because its power over the subject of bankruptcy is plenary, may by specific bankruptcy legislation create an exception to that principle and render judicial acts taken with respect to the person or property of a debtor whom the bankruptcy law protects nullities and vulnerable collaterally"); Mozes v. Mozes, 239 F.3d 1067, 1085 n. 55 (9th Cir. 2001) (because the *Rooker-Feldman* doctrine "is one of congressional intent, not constitutional mandate, it follows that where Congress has specifically granted jurisdiction to the federal courts, the doctrine does not apply"); Contractors' State License Bd. v. Dunbar (In re Dunbar), 245 F.3d 1058, 1060 (9th Cir. 2001) (state court modifications of the automatic stay do not preclude, under the doctrines of collateral estoppel and res judicata, federal relititgation of the stay's scope and applicability); Gruntz v. County of Los Angeles (In re Gruntz), 202 F.3d 1074, 1083 (9th Cir. 2000) (automatic stay and *Rooker-Feldman*); Ruvacalba v. Munoz (In re Munoz), 287 B.R. 546, 556 (9th

Cir. BAP 2002) (Section 524(a)(1) discharge injunction "operates as a statutory exception" to the Full Faith and Credit statute and permits collateral attack of nonbankruptcy court judgments in bankruptcy court notwithstanding the *Rooker-Feldman* doctrine); Pavelich v. McCormick et al. LLP (In re Pavelich), 229 B.R. 777, 781-83 (9th Cir. BAP 1999).

The first question to address, in determining whether the *Rooker-Feldman* doctrine applies, is whether the bankruptcy court has exclusive jurisdiction to decide real property ownership issues. A district court has original and exclusive jurisdiction over bankruptcy cases. See 28 U.S.C. § 1334(a). That power may be referred to the bankruptcy court. 28 U.S.C. § 157(a). "The bankruptcy court's exclusive jurisdiction encompasses 'all matters connected with the bankruptcy estate.'" Birting Fisheries, 300 B.R. at 498-99, citing Gruntz, 202 F.3d at 1080 (quoting Celotex Corp. v. Edwards, 514 U.S. 300, 308, 115 S.Ct. 1493, 131 L.Ed.2d. 403 (1995)).

In Gruntz, the Ninth Circuit further explained that exclusive jurisdiction exists over "core" proceedings. See Gruntz, 202 F.3d at 1081 ("[T]he separation of 'core' and 'non-core' proceedings . . . creates a distinction between those judicial acts deriving from the plenary Article I bankruptcy power and those subject to general Article III federal court jurisdiction."); see also 28 U.S.C. § 157. A "'core proceeding' is one 'that invokes a substantive right provided by title 11 or . . . a proceeding that, by its nature, could arise only on the context of a bankruptcy estate.'" Gruntz, 202 F.3d at 1081 (quoting Wood v. Wood (In re Wood), 825 F.2d 90, 97 (5th Cir. 1987)). Put another way, "core" proceedings are those that "arise under the Bankruptcy Code or arise in a bankruptcy case." McCowan v. Fraley (In re McCowan), 296 B.R. 1, 3 (9th Cir. BAP 2003).

Specifically, 28 U.S.C. § 157(a)(2)(G) provides that core proceedings include "motions to terminate, annul, or modify the automatic stay" and under §157(a)(2)(K) "determinations of the validity, extent, or priority of liens." The ownership of the real property was litigated to conclusion (but for the ministerial act of entering a separate judgment) in Superior Court, and a motion to lift the automatic stay has been filed in bankruptcy court. Clearly, this is a core proceeding. The *Rooker-Feldman* doctrine does not apply (because this judgment is not "final") and would not therefore

prevent this court from determining the ownership issue.

However, this court chooses to abstain from determining the ownership issue as the Superior Court proceeding is so far advanced. Indeed, the Superior Court entered a Minute Entry determining that Debtors were in default under the Agreement and that Tattie Land was entitled to a judgment of forfeiture. The only event that prevented a final Judgment from being entered was Debtors' filing of their bankruptcy petition on the day the Minute Entry was entered. Therefore, this court finds there is no bankruptcy reason left to decide the ownership issue and thus will abstain from re-litigating the ownership issue.

The stay will be lifted on the real property so that a final judgment can be entered in Superior Court. If Debtors decide to appeal and thereafter prevail, they can amend their chapter 13 plan to provide for the real property. Should the Debtors lose (as they have) at the Superior Court level, and decide to appeal, that court can address issues of whether a stay pending appeal should issue, and upon what conditions.

CONCLUSION

Because this court chooses to abstain from deciding the ownership issue concerning the real property, the automatic stay will be lifted on the real property so that a final judgment can be entered in Superior Court, and further actions concerning this property dispute can be continued in the state judicial system.

A separate order will be entered concurrently with this Memorandum Decision.

DATED: January 27, 2005

JAMES M. MARLAR
UNITED STATES BANKRUPTCY JUDGE

COPIES ~~served as indicated below~~ mailed this 27 day of January, 2005, upon:

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