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ENTERED 5-15-09
FILED
MAY 15 2009
CLERK, U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY _____ DEPUTY

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re	Bankruptcy No. 09-01339-LT13
FREDDIE REYNO and JUNE F. REYNO,	MEMORANDUM DECISION
Debtors.	

Freddie Reyno and June Reyno ("Debtors") filed three motions seeking various forms of relief against Option One Mortgage, Litton Loan Servicing Company, and Residential Funding Company, LLC. The Debtors' allegations arise from actions taken by the creditors to collect a debt secured by a house the Debtor's owned at 10169 Presley Street in San Diego ("the Property"). The creditors filed opposition to the motions, and the matters were heard by the Court on April 22, 2009, and taken under submission at the conclusion of the hearing. After review of the motions and opposition, the Court finds there are no grounds to support the relief requested by the Debtors and their motions are denied.

The Debtors have filed three petitions with this Court. The

1 first, No. 07-02627, was filed on May 23, 2007, as a Chapter 13
2 petition. ("First Case"). The automatic stay created by the filing
3 of the petition in the First Case prevented a Trustee's foreclosure
4 sale of the Property which was scheduled to occur on May 24, 2007.
5 The First Case was later converted to one under Chapter 7, and the
6 Debtors received a discharge under § 727 on December 20, 2007. Litton
7 Loan Servicing, LLP, as servicing agent for Residential Funding
8 Company, LLC, its successors and/or assigns, ("Litton" and
9 "Residential") filed a motion for relief from stay as to the Property
10 in connection with the First Case. That motion was granted by an
11 order entered on January 9, 2008. A foreclosure sale of the Property
12 was held on January 31, 2008, as reflected in a Trustee's Deed on Sale
13 that was recorded with the County of San Diego on February 12, 2008,
14 as Doc. # 2008-0071007. The First Case is still pending, and on April
15 7, 2009, the Debtors filed a complaint within the First Case against
16 Litton, Residential, Option One and their attorneys, Adv. No. 09-
17 90151. The relief requested in that complaint is similar to that
18 sought by the motions which are the subject of this Memorandum
19 Decision.

20 After the foreclosure sale of the Property, the Debtors filed a
21 complaint in the state court against Litton and Residential to obtain
22 an injunction to stop their eviction from the Property. The Debtors'
23 request for injunctive relief was denied by the state court on July
24 3, 2008. On July 8, 2008, the Debtors filed their second Chapter 13
25 petition with this Court, No. 08-06258 ("Second Case"). Litton and
26 Residential filed a motion for relief from stay in the Second Case to
27 pursue their state remedies as to the Property. An order granting
28 relief from stay to Litton and Residential was entered on August 20,

1 2008. That order contained provisions to indicate that the order was
2 to be binding and effective as to the Property in any other bankruptcy
3 case filed by the Debtors within two years. The Second Case was
4 dismissed on November 4, 2008.

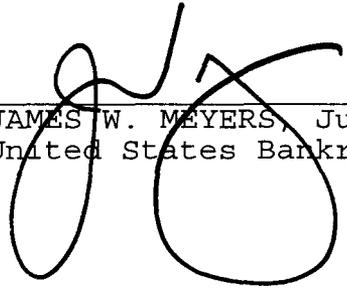
5 The Debtors filed a third Chapter 13 petition on February 3,
6 2009, which was designated as No. 09-01339. Apparently recognizing
7 that they were no longer entitled to the protection of an automatic
8 stay with respect to the Property, the Debtors filed various pleadings
9 to request relief, including motions to impose the automatic stay,
10 extend the automatic stay, opposing the relief from stay obtained by
11 Litton and Residential in the Second Case, and for sanctions against
12 the creditors for violation of the stay and discharge injunction. The
13 Debtors also filed a complaint as part of the Third Case, for
14 sanctions and other relief against Option One, Litton, Residential and
15 their attorneys.

16 The bankruptcy court is a court of limited jurisdiction. The
17 Debtors have not identified any action taken by Option One that was
18 a violation of any automatic stay or discharge injunction. Option One
19 assigned its' interest in the note and collateral before the Debtors
20 filed the petition in the First Case. Option One has had no
21 involvement in the subsequent foreclosure or eviction proceedings.
22 The Debtors have not provided a basis to obtain any form of relief as
23 to Option One.

24 Litton and Residential obtained relief from the automatic stay
25 in the First Case and in the Second Case to pursue state court
26 remedies to recover the Property which was collateral for an unpaid
27 debt. Those orders are final and were not appealed. These creditors
28 have raised meritorious arguments in response to the Debtors' pending

1 motions. The arguments presented by the Debtors concerning the
2 creditors' possession of the original note, decisions on loan
3 modification and the extent of the protection offered by the
4 Bankruptcy Code have been raised and considered before in this Court
5 and/or the California Superior Court. The Debtors are prohibited from
6 relitigating the matters that have been or could have been decided in
7 a prior action by the doctrines of claim preclusion and issue
8 preclusion. See, In re George, 318 B.R. 729 (9th Cir. BAP 2004). The
9 Debtors have presented no basis upon which to award damages against
10 the creditors identified in the pending motions, or to impose any stay
11 to halt Litton or Residential from pursuing their rights to the
12 Property in accordance with California law. The Debtors' motions are
13 denied. The attorney for Litton & Residential is instructed to submit
14 a proposed order denying the relief requested by the Debtors in those
15 motions within 14 days of the entry of this Memorandum Decision.

16 Dated: **MAY 15 2009**



17 JAMES W. MEYERS, Judge
18 United States Bankruptcy Court
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