UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN THE MATTER OF	)	
	)	
JEFFREY CHARLES CHAMBERLIN	)	CASE NO. 14-31183 HCD
MARGARET MARY CHAMBERLIN	)	CHAPTER 13
DEBTORS	)	
	)	
	)	
JEFFREY CHARLES CHAMBERLIN	)	
MARGARET MARY CHAMBERLIN	)	
PLAINTIFFS	)	
vs.	)	PROC. NO. 14-3021
	)	
1ST SOURCE BANK; CHASE MANHATTAN	)	
MORTGAGE CORPORATION; INDIANA	)	
DEPARTMENT of REVENUE; QUINTO	)	
SQUADRONI; and JANINE SQUADRONI	)	
DEFENDANTS	)	

Appearances:
Debra Voltz-Miller, Esq., 1951 East Fox, South Bend, Indiana 46613, attorney for plaintiffs Jeffrey Charles Chamberlin and Margaret Mary Chamberlin.

William G. Lavery, Esq., Whisler & Lavrey, 600 South Main Street, Suite 200, Elkhart, Indiana 46516, attorney for defendant 1st Source Bank.

Christina M. Bruno, Esq., Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204, attorney for defendant Chase Manhattan Mortgage Corporation.

Steven D. Carpenter, Esq., Legal Division, IGCN-N248, 100 North Senate Avenue, Indianapolis, Indiana 46204, attorney for defendant Indiana Department of Revenue.

Phillip A. Garrett, Esq. and Michael A. Trippel, Esq., Thorne Grodnik LLP, PO Box 1210, Mishawaka, Indiana 46546-1210, attorneys for defendants Quinto Squadroni and Janine Squadroni.

MEMORANDUM OF DECISION

At South Bend, Indiana, on March 17, 2015.

Before the court is the Motion for Summary Judgment ("Motion") filed by defendant 1st Source Bank ("1st Source"). This Motion asks the court to enter summary judgment in favor of 1st Source against Jeffrey Charles Chamberlin and Margaret Mary Chamberlin ("Chamberlins") "as well as any and

all defendants or other parties" in this adversary proceeding. For the reasons stated in this Memorandum of Decision, the court grants the 1st Source's Motion.[1]

BACKGROUND

The parties to this adversary proceeding have jointly filed a Stipulation of Facts, ECF No. 21 ("Stipulation") that sets out the facts relevant to the matter before the court. The essential issues in this adversary proceeding concern the priority among mortgage holders in a bankruptcy case when a state court has defaulted a senior mortgagee in a foreclosure proceeding before the bankruptcy filing. The question arises from an unsuccessful business involving the Chamberlins. Several properly recorded mortgages burden the property of the Chamberlins. Absent the foreclosure proceeding, the matter before this court would be easily resolved. Under Indiana law, a mortgage takes priority according to the time of its filing. IC § 32-21-4-1(b). The existence of a pre-petition state court foreclosure judgment in favor of a junior lien holder alters this outcome.

The Mortgages

In January 1999, the Chamberlins gave Irwin Mortgage Corporation a $102,350.00 promissory note secured by a mortgage on their residence. This mortgage was recorded January 15, 1999 at 2:33 p.m., as document number 9902071. Irwin assigned the mortgage to Chase Manhattan Mortgage Corporation ("Chase"). This assignment was recorded August 18, 1999 at 8:58 a.m. as document number 9938488.

On June 24, 2002, Jeffrey Chamberlin, David Fawver and Lewis Mark ("Guarantors") formed a company named JDL LLC ("JDL"). On August 21, 2002, JDL obtained a loan[2] from 1st Source.

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[1]The court has jurisdiction to decide the matter before it pursuant to 28 U.S.C. § 1334 and § 157 and Northern District of Indiana Local Rule 200.1. The court has determined that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(K).

[2]The original principal amount was $156,000.00. As of July 15, 2011, the judge in the state court foreclosure action found the debt, including principal, interest, late fees, and related fees to be $107,567.93, with per diem accrual of $29.49 thereafter. See Stipulation, Exhibit G, Partial Summary Judgment and Decree Foreclosing Note, Mortgages, and Security Interest.

Jeffrey, David, and Lewis and their spouses each signed personal guarantees for the loan that included mortgages on their residences. 1st Source recorded its mortgage on August 29, 2002 at 10:13:01, as document number 0246436. Also August 21, 2002, the Guarantors and their spouses executed mortgages on their principal residences in favor of Quinto Squadroni and Janine Squadroni ("Squadronis") to secure a $175,000.00 loan. The Squadronis recorded their mortgage on the Chamberlins residence on August 29, 2002 at 10:13:07, as document number 0246442. JDL used the loan proceeds to purchase a business known as Squads 2nd Precinct and buildings owned by Squadronis.

State Court Foreclosure Action

1st Source filed a foreclosure complaint against JDL, the Chamberlins, Chase, the Squadronis, the Guarantors, the Indiana Department of Revenue, the Internal Revenue Service, St. Joseph County Treasurer, and National City Bank in St. Joseph County Circuit Court ("state court") on April 21, 2011.[3] This complaint sought foreclosure of real estate owned by JDL and other real property including the residences of the Chamberlins and other Guarantors. Squadronis filed a cross claim in this action seeking foreclosure of the mortgages given by the Guarantors.

The St. Joseph County Circuit Court defaulted Chase on June 8, 2011. See Stipulation, Exhibit G. The state court, on December 15, 2011, issued a Partial Summary Judgment and Decree Foreclosing Note, Mortgages, and Security Interest. See Stipulation, Exhibit H. In granting partial summary judgment, the state court specifically "ordered, adjudged and decreed" that the security interest of 1st Source "is the first and prior lien to that of any other party, entitled to be foreclosed." The state court also ordered that the Partial Summary Judgment "in no way adjudicates the rights of Quinto J. Squadroni and Janine R. Squadroni … other than to allow 1st Source to foreclose its Mortgages on the Real Estate and to extinguish any rights of the Squadronies [*sic*] upon the successful completion of Sheriff's sales of the Real Estate." *Id.* The state court, on March 30, 2012, entered summary judgment in

[3]The state court foreclosure action involved the same entities that are parties to this adversary proceeding, namely the Chamberlins, the Squadronis, Chase, 1st Source, and the Indiana Department of Revenue.

favor of the Squadronis against the Chamberlins and the other Guarantors on Squadronis' mortgages. That judgment found that Chase was in default. The state court specifically found that the mortgage of the Squadronis was superior to any interest in the subject property other than the first priority of 1st Source.

In the state court foreclosure action, Chase actually participate by filing a motion to set aside the 1st Source June 8, 2011 default judgment. The state court held a hearing on this motion on April 15, 2013. On July 17, 2013, the state court denied Chase's motion to set aside the default judgment entered against Chase in favor of 1st Source on June 8, 2011. See Stipulation Exhibit I. In that same order, the state court set aside the March 30, 2012 entry of summary judgment, default judgment and decree of foreclosure against Chase in favor of the Squadronis. Chase did not appeal the entry of the judgments or the orders on the motions to set aside the judgments.

Bankruptcy Proceedings

In this court, on August 22, 2013, the Chamberlins sought relief under chapter 13 in case number 13-32439. In that prior case, the court denied confirmation of the plan submitted by the Chamberlins. On motion of the standing chapter 13 in the prior case, the court dismissed the case without prejudice on March 10, 2014.

The Chamberlins filed the present case, numbered 14-31183, seeking relief under chapter 13 on May 7, 2014. 1st Source filed proof of secured claim number 6-1 for $97,446.19 on May 22, 2014. The Squadronis filed proof of claim number 8-1 for $103,910.36 on July 8, 2014. Squadronis did not claim to be secured creditors. On September 2, 2014, Chase filed proof of secured claim number 11-1 for $81,274.11, with arrearage of $6,944.64. On May 22, 2014, the Chamberlins filed this adversary proceeding to determine the "extent and priority of liens to permit Debtors to propose a plan." All

defendants filed timely answers to the complaint.[4] Four of the five parties to this adversary proceeding joined in filing the Stipulation, ECF No. 21, on August 22, 2014.[5]

On October 20, 2014, 1st Source filed its Motion seeking summary judgment, dismissal, and the recovery of costs and reasonable attorney fees. ECF No. 28. Chase responded to the Motion on November 19, 2014, by asking for a finding by this court that it has a first priority mortgage on the Chamberlins residence. ECF No. 30. The Chamberlins and the Squadronis have not responded to the 1st Source Motion.

DISCUSSION

In this adversary proceeding, the Chamberlins ask the court to "determine the extent and priority of the liens" against their residence. The Chamberlins want this court to decide the precedence among the Chase, 1st Source and Squadronis mortgages. Proceedings to "determine the validity, priority, or extent of a lien or other interest in property" are proper subjects for determination by this court. See 11 U.S.C. § 157(b)(2)(K); Fed. R. Bankr. P. 7001(2). To resolve the mortgage issues in this matter, the court must look to Indiana law. *National Republic Bank of Chicago v. N.S.D. Corp.*, 2009 WL 4547424, at *6 (N.D. Ind. Nov. 30, 2009) (Mortgage foreclosure actions are governed by the law of the state where the subject real estate is located.", citing *Lewis v. Davis*, 55 N.E.2d 119, 120 (Ind. App. 1944).

The Motion before the court seeks summary judgment. Rule 7056 of the Federal Rules of Bankruptcy Procedure provides that Federal Rule of Civil Procedure 56 governs this court's review of a motion for summary judgment. Summary judgment is proper only where the record shows that "there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(a); Fed. R. Bankr. P. 7056. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

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[4]Defendant Indiana Department of Revenue filed an answer on June 12, 2014, ECF. No. 6. The Squadronis filed an answer and affirmative defenses on June 16, 2014, ECF No. 7. Chase filed an answer on June 23, 2014, ECF No. 11. 1st Source filed its answer on June 27, 2014, ECF No. 15.

[5]The fifth party, defendant Indiana Department of Revenue, was subsequently dismissed as a party on January 26, 2015. ECF No. 38.

"One of the principal purposes of the summary judgment rule is to isolate and dispose of factually unsupported claims or defenses." *Id.* at 323-24. The moving party bears the initial burden of showing that no genuine issue of material fact exists. *Id.* at 323.

Rooker-Feldman[6]

Before examining whether a genuine issue of material fact is present in this adversary proceeding, the authority of this court to make such a determination must exist. Both 1st Source and Chase have discussed the application of the Rooker-Feldman doctrine at length in their submissions to this court. Rooker-Feldman applies in bankruptcy matters to prohibit federal court review of state court judgments. *In re Wilson*, 116 F.3d 87, 90 (3rd Cir. 1997). "The Rooker–Feldman doctrine prevents the federal district courts from entertaining actions brought by 'state-court losers' challenging 'state-court judgments rendered before the district court proceedings commenced.'" *In re Schmid*, 494 B.R. 737, 745-46 (Bankr. W.D. Wis. 2013) (citations omitted). The Rooker–Feldman doctrine is applicable both to claims at issue in a state court order and to claims that are "inextricably intertwined" with such an order. *See Exxon Mobil*, 544 U.S. at 286, n. 1. The Seventh Circuit has described Rooker-Feldman as an "extremely limited" doctrine, applying to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *TruServ Corp. v. Flegles, Inc.*, 419 F.3d 584, 590 (7th Cir. 2005) (citing *Exxon Mobile*). "The Rooker–Feldman doctrine is not just another name for the doctrine of claim preclusion (collateral estoppel), which is issue-specific. Instead the Rooker–Feldman doctrine establishes that district courts lack subject-matter jurisdiction to set aside judgments that state courts have entered in civil cases; the reason the plaintiff gives for seeking this relief is irrelevant." *Canen v. U.S. Bank National Association*, 556 Fed. Appx. 490, 491 (7th Cir. 2014).

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[6]"Together, *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923) and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983) hold that the United States Supreme Court is the only federal court that may review judgments entered by state courts in civil litigation." *Exxon Mobil Corp. v. Saudi Basic Inds. Corp.*, 544 U.S. 280, 284 (2005).

In determining whether Rooker-Feldman applies to bar this court from reordering the priority of the liens of Chase and 1st Source, the inquiry must be whether the injury to Chase resulted from the state court judgment or is distinct from that judgment. See *Lewis v. Anderson*, 308 F.3d 768, 772 (7th Cir. 2002). If the harm to Chase is distinct from the state court judgment and not inextricably intertwined with it, the Rooker-Feldman doctrine does not apply. *In re Fischer*, 483 B.R. 877, 883 (Bankr. E.D. Wis. 2012). Any injury to Chase as to the precedence of its lien interest flows from the foreclosure judgment issued by the state court. Under Rooker-Feldman, this court cannot reorder mortgage liens from the priority already established by a state court foreclosure judgment. *Id*, at 884. As to the 1st Source mortgage, the decision of the state court states 1st Source has "the first and prior lien to that of any other party." Consequently, under Rooker-Feldman this court does not have jurisdiction to restructure the priority of liens determined in the state court foreclosure action. The state court Partial Summary Judgment has already done so. This court also notes, with respect to the Squadroni mortgage, the state court was clear that the interest of the Squadronis is junior to 1st Source. If the 1st Source mortgage was subject to the interest of Chase, the ruling of the state court would have so stated.

Res Judicata[7]

Apart from the Rooker-Feldman doctrine, the doctrine of claim preclusion bars the re-litigation of matters that were, or could have been litigated in the state court case. See *Federated Dep't Stores v. Moitie*, 452 U.S. 394, 398 (1981). The Stipulation submitted in this adversary proceeding provides the admitted facts regarding the mortgages on the Chamberlins' residence. The court notes that

[7]In Indiana, res judicata has two subcategories, claim preclusion and issue preclusion. "Claim preclusion applies where a final judgment on the merits has been rendered which acts as a complete bar to a subsequent action on the same issue or claim between those parties and their privies. Issue preclusion bars the subsequent relitigation of the same fact or issue where that fact or issue was necessarily adjudicated in a former suit and the same fact or issue is presented in a subsequent action. … A default judgment is a judgment on the merits for purposes of res judicata." *Eichenberger v. Eichenberger*, 743 N.E.2d 373, 374 (Ind. App. 2001) (citations omitted). Under Indiana case law, claim preclusion is also referred to as collateral estoppel. *Id.* "When claim preclusion applies, all matters that were or might have been litigated are deemed conclusively decided by the judgment in the prior action." *Afolabi v. Atlantic Mortgage & Investment Corp.*, 849 N.E.2d 1170, 1173 (Ind. App. 2006).

the state court has previously entered a judgment foreclosing the mortgage of 1st Source against the Chamberlins. As part of that decision, the state court found the security interest of 1st Source is the first and prior lien to that of any other party. In finding the 1st Source lien a first and prior lien, the state court also found by necessity that the lien of Chase is subordinate to the lien of 1st Source. Understandably, the state court Partial Summary Judgement in favor of 1st Source did not expressly mention the Chase mortgage because that court had previously rendered a default judgment against Chase. A default judgment that Chase asked the state court to vacate. The state court declined to do so after a hearing, and Chase has not appealed that decision. Chase had the opportunity to participate in the 1st Source foreclosure, and neglected to take advantage of it by failing to answer the complaint. Chase did litigate the issue of its default before the state court and did not prevail after a hearing by that court. "A judgment of a court having jurisdiction of the parties and of the subject-matter operates as res judicata, in the absence of fraud or collusion, even if obtained upon a default." *Riehle v. Margoles*, 279 U.S. 218, 225 (1929); *Hawxhurst v. Pettibone Corp.*, 40 F.3d 175, 180 at fn. 2 (7th Cir. 1994).

As the Supreme Court has instructed, "Congress has generally left the determination of property rights in the assets of a bankrupt's estate to state law. … [T]he federal bankruptcy court should take whatever steps are necessary to ensure that the mortgagee is afforded in federal bankruptcy court the same protection he would have under state law if no bankruptcy had ensued." *Butner v. U.S.*, 440 U.S. 48, 54-56 (1979). In Indiana the general rule is "[a] conveyance, mortgage, or lease takes priority according to the time of its filing." Ind. Code § 32–21–4–1(b). Foreclosure actions in Indiana are essentially equitable. *Songer v. Civitas Bank*, 771 N.E.2d 61, 69 (Ind. 2002). Concerning equitable actions, Indiana courts give particular deference to the judgment of the trial court, and "judgments in equity are clothed in a presumption of correctness." *Indiana Lawrence Bank v. PSB Credit Services, Inc.*, 706 N.E.2d 570, 572 (Ind. App.1999) (*transfer den.* 735 N.E.2d 226 (Ind. 2000)). This court will presume the decision of the state court in the 1st Source foreclosure action was correct.

The 1st Source allegations in its foreclosure action placed the validity, priority, and amount of Chase mortgage lien in issue, and were sufficient to require Chase to answer to whatever interest it had in the property. Having failed to do so, its lien was extinguished. See *Centex Home Equity Corp. v. Robinson*, 776 N.E.2d 935, 948 (Ind. App. 2002) (*transfer den.* 792 N.E.2d 38 (Ind. 2003)). The state court could not find that 1st Source holds a first lien if its interest is subordinate to Chase. "The judgment in the foreclosure case fixed the rights of the parties to it." *De Haven v. Musselman*, 24 N.E. 171, 173 (Ind. 1890). The ultimate significance of the state court decision is that even though Chase recorded its mortgage on the residence of the Chamberlins more than three years before 1st Source recorded its mortgage, as between Chase and 1st Source, due to the failure of Chase to participate in the foreclosure action 1st Source has a superior lien on the property.

This court's understanding of the foreclosure judgment in favor of 1st Source is further confirmed by the treatment of the Squadronis mortgage in the state court foreclosure action. In granting a default judgment in favor of the Squadronis, the state court noted their mortgage was subject to the 1st Source lien. This ruling made no mention of the Chase mortgage that was the subject of a prior default judgment. Chase subsequently successfully challenged the default judgment against it and in favor of the Squadronis. Chase's request to set aside the 1st Source default judgment in the state court was denied after a hearing. Chase had a full and fair opportunity to participate in the 1st Source state court foreclosure action. Any adverse outcome from that litigation is of Chase's own making. This court is not the proper forum to review the determination of the state court.

Summary Judgment

Apart from Rooker-Feldman and res judicata considerations, the issue raised by the 1st Source Motion remains. Is 1st Source entitled, as a matter of law, to summary judgment because there no genuine issues of material fact in this adversary proceeding? After reviewing issues raised and submissions of the parties, the court finds the record and the parties are in agreement on all the relevant

facts. Chase, 1st Source and the Squadronis all have recorded mortgages on the residence of the Chamberlins. The Chase mortgage was recorded before the 1st Source mortgage. The 1st Source mortgage was recorded before the mortgage of the Squadronis. These three mortgages are all valid liens against the residence of the Chamberlins. 1st Source filed a foreclosure suit in St. Joseph County Circuit Court concerning the property of the Chamberlins. The Chamberlins, Chase and the Squadronis were named defendants in the foreclosure action. On June 8, 2011, the state court entered a default judgment against Chase. On December 15, 2011, the state court entered a Partial Summary Judgment and Decree Foreclosing Note, Mortgages, and Security Interest. In granting partial summary judgment, the state court specifically ordered that the security interest of 1st Source "is the first and prior lien to that of any other party, entitled to be foreclosed." On July 17, 2013, the state court declined to set aside this default after a hearing. This means as between Chase and 1st Source, the proceedings in state court left 1st Source in a dominant position relative to Chase. This determination by the state court binds this court. "Congress has generally left the determination of property rights in the assets of a bankrupt's estate to state law." *Butner v. U.S.*, 440 U.S. at 54. This includes security interests. *Id.* at 55; *Matter of Elcona Homes Corp.*, 863 F.2d 483, 486 (7th Cir. 1988) ("the underlying rights of creditors which are asserted in bankruptcy proceedings are the creation of state law"). The court finds there are no genuine issues of material fact. The interest of 1st Source is superior to Chase. Consequently, 1st Source is entitled to summary judgment as a matter of law.

CONCLUSION

The court finds the Rooker-Feldman doctrine prevents relitigation of the 1st Source state court foreclosure action in this court. Apart from Rooker-Feldman considerations, Chase had a full and fair opportunity to litigate in the state court foreclosure action and failed. Res judicata prevents the retrial of those issues decided, or which could have been litigated in the state court foreclosure action. The state court defaulted Chase and this court may not disturb that decision. The state court foreclosure action has

determined the relative positions of the interests of 1st Source and Chase and no genuine issues of material fact remain. Because no genuine issue of material fact exists, the court may grant summary judgment. The court dismisses this adversary proceeding. Each side to bear their own costs.

SO ORDERED.

/s/ HARRY C. DEES, JR.
HARRY C. DEES, JR., JUDGE
UNITED STATES BANKRUPTCY COURT