

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
HARTFORD DIVISION

IN RE:)	CASE No.	16-20810 (JJT)
)		
SANDRA LEE,)	CHAPTER	13
DEBTOR.)		
)	RE: ECF No.	17, 31, 64
)		

RULING ON OBJECTION TO CLAIM 4

Introduction

Before the Court is the Debtor’s Objection to Claim 4 (“Objection”, ECF No. 17), and the responses thereto. Upon review of the record of the June 13, 2017 hearing and the relevant law, the Court finds that the arguments advanced by the Debtor are barred by the Rooker Feldman doctrine and/or res judicata, and hereby overrules the Objection.

Facts

A state court foreclosure action was commenced against the Debtor on January 28, 2010. *See Bac Home Loans Servicing, LP v. Lee, Sandra et al*, HHD-CV10-6007563S. A judgment of strict foreclosure entered on February 9, 2015, and the first law day was set for April 6, 2015. The foreclosure was stayed by the Debtor’s filing of bankruptcies on March 31, 2015 and November 25, 2015. On April 25, 2016, the Debtor filed a Motion to Reopen Judgment of Strict Foreclosure, wherein she attacked the legality of the loan, and stated her intention to assert a number of defenses, including lack of standing, illegality, fraud and unfair trade practices, upon the reopening of the judgment. On May 9, 2016, the state court denied the Motion to Reopen. This bankruptcy case was commenced on May 20, 2016, prior to the running of the law days. In the instant Objection, the Debtor asserts, *inter alia*, that the mortgage is invalid because at the

time of the creation of the mortgage, the original lender did not exist as a corporate entity and as such, the loan was illegal, and any subsequent assignments a nullity.

Discussion

Under the Rooker Feldman doctrine, federal courts lack subject matter jurisdiction over claims that effectively seek review of state court judgments. *See Dist. of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482–87, 103 S. Ct. 1303, 75 L.Ed.2d 206 (1983); *Rooker v. Fidelity Tr. Co.*, 263 U.S. 413, 415–16, 44 S. Ct. 149, 68 L. Ed. 362 (1923). A claim is barred under the Rooker Feldman doctrine when: “1) the plaintiff lost in state court; 2) the plaintiff complains of injuries caused by the state court judgment; 3) the plaintiff invites district court review of that judgment; and 4) the state court judgment was entered before the plaintiff’s federal suit commenced.” *McKithen v. Brown*, 626 F.3d 143, 154 (2d Cir. 2010). Where the issues raised are so “inextricably intertwined with a state court judgment” so that “the federal claim would succeed only if the state court wrongly decided the issue”, the Rooker Feldman factors are present. *See, e.g., Barnett v. Conn. Light & Power Co.*, 900 F. Supp. 2d 224, 241 (D. Conn. 2012) (quoting *Dockery v. Cullen & Dykman*, 90 F. Supp. 2d 233, 236 (E.D.N.Y. 2000), *aff’d*, 2 Fed. Appx. 78 (2d Cir. 2001).

Here, the procedural elements of the Rooker Feldman doctrine are easily met. With regard to the first element, the state court entered summary judgment in favor of the Lender, finding that the Debtor was liable to them on the note and mortgage. A judgment of strict foreclosure subsequently entered against the Debtor and in favor of the Lender. The Debtor’s claims were rejected a third time when the state court denied her Motion to Reopen the judgment of strict foreclosure. As to the fourth element, the foreclosure judgment was rendered February 9, 2015, before the Debtor filed her Objection on October 12, 2016.

The substantive requirements of the Rooker Feldman doctrine have also been met in this case. As to the second element, the Debtor here is irrefutably complaining of injuries caused by the state court judgment. Specifically, she attacks the validity of the note and mortgage on the grounds of illegality, fraud, and unfair trade practices in the context of an objection to the Lender's proof of claim. The injury, i.e., the validity of the note, was caused by the state court judgment of foreclosure, which held the mortgage instruments to be valid and enforceable. Finally, with regard to the third element, by asking this Court to disallow the Lender's claim on the basis of fraud, lack of standing and illegality—the very claims denied by the state court—the Debtor invites this Court to review and reject the judgment of foreclosure. A ruling for the Debtor on any one of her arguments would necessarily entail a finding that the foreclosure judgment was wrongfully granted and thus void. Based upon the record, the Court finds that the injury in which the Debtor complains arises from factors inextricably related to the state court foreclosure judgment such that the substantive elements of the Rooker Feldman doctrine are satisfied. Accordingly, the Rooker Feldman doctrine divests this Court of jurisdiction to entertain the allegations in the Objection.¹

Even if the Court had jurisdiction to review the validity of the foreclosure judgment, res judicata would bar the Debtor's argument. Res judicata operates to prevent a party from relitigating a claim after the claim has already been decided by a court of competent jurisdiction. See *Brown v. Felsen*, 442 U.S. 127, 131, 99 S. Ct. 2205, 60 L. Ed. 2d 767 (1979); *Monahan v. New York City Dep't of Corr.*, 214 F.3d 275, 284 (2d Cir. 2000). Under Connecticut law, “[a]

¹ Moreover, Second Circuit case law is clear that the state court is the appropriate forum for any challenge to a foreclosure judgment, even one asserting that the judgement is void, or that the plaintiff lacked standing to foreclose. See *Vossbrinck v. Accredited Home Lenders, Inc.*, 773 F.3d 423, 427 (2d Cir. 2014); *Ford v. U.S. Dept. of Treasury I.R.S.*, 50 Fed. Appx. 490, 491, 2002 WL 31505263, at *1 (2d Cir. 2002); *Gonzalez v. Ocwen Home Loan Servicing*, 74 F. Supp. 3d 504, 514 (D. Conn. 2015); *In re Richmond*, 513 B.R. 34, 39 (Bankr. E.D.N.Y. 2014); *Swiatkowski v. Citibank*, 745 F. Supp. 2d 150, 165 (E.D.N.Y. 2010), *aff'd*, 446 Fed. Appx. 360 (2d Cir. 2011).

former judgment on a claim, if rendered on the merits, is an absolute bar to a subsequent action on the same claim. The transactional test adopted by the Connecticut courts measures the preclusive effect of a prior judgment, which includes any claims relating to the cause of action that were actually made or might have been made.” *See Legassey v. Shulanksy*, 28 Conn. App. 653, 656 (1992). “The appropriate inquiry with respect to [claim] preclusion is whether the party had an *adequate opportunity* to litigate the matter in the earlier proceeding.” *Joe's Pizza, Inc. v. Aetna Life and Cas. Co.*, 675 A.2d 441, 446, 236 Conn. 863, 872 (1996) (emphasis in original).

Here, the elements of *res judicata* have also been readily met. The Debtor could have raised all of her defenses relating to the making, validity and enforceability of the mortgage, but did not do so. *See Packer v. SN Servicing Corp.*, 2008 WL 359411, at *3 (D. Conn. May 16, 2008) (citing *Fidelity Bank v. Krenisky*, 72 Conn. App. 700, 705–06 (2002)) (“[U]nder Connecticut law, a defendant in a foreclosure proceeding can only raise defenses relating to the making, validity and enforceability of the mortgage.”). The Debtor had an opportunity to address the grounds raised in the Objection in defending the foreclosure action and, in fact, later made the very same arguments in her Motion to Reopen the judgment of strict foreclosure. In the Order denying the motion, the state court found no good cause to open the judgment, and stated that the Debtor, represented by counsel, “had ample opportunity to present any defenses she has to this foreclosure”. Order Regarding Motion to Open and Vacate Judgment, *Bac Home Loans Servicing, LP v. Lee, Sandra et al*, No. HHDCV106007563S (Scholl, J.) (Conn. Sup. Ct. May 9, 2016). The Debtor is consequently precluded from making these same arguments in this Court. The state court judgment of strict foreclosure was a final judgment on the merits, and it is not in the province of this Court to hear a collateral attack on that judgement.

As the Debtor may have other redress under state foreclosure law and procedure, it is appropriate for this Court to also grant limited stay relief, for cause shown, under 11 U.S.C. § 362(d)(1), to allow the parties to properly join and prosecute the issues raised in the Debtor's Objection, and allow the parties to seek any further ruling from the state trial or appellate court. The stay will otherwise remain in effect, until further order of this Court, before the above referenced foreclosure action may proceed to the reopening of the judgment in order to reset law days or to direct a foreclosure sale.²

The Debtor shall promptly file any motion(s) in state court related to her claims and efforts to vacate the foreclosure judgement, and the Lender shall promptly respond to the motion(s). By this Ruling, the Court offers no position on the merits or procedural appropriateness of the Debtor's claims in state court foreclosure action.

The parties shall report back to the Court at a status conference set in approximately sixty (60) days henceforth, unless a disposition of the state court on the Debtor's motion(s) issues prior to that time.

Dated at Hartford, Connecticut 19th day of July 2017.

James J. Tancredi
United States Bankruptcy Judge
District of Connecticut

² The Lender's motion for stay relief (ECF No. 44) in this Chapter 13 case is currently under advisement. If it is granted, in the event the Debtor prevails in vacating the foreclosure judgment, she may seek to have this Court reimpose the automatic stay.