

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT**

_____)		
IN RE:)	CASE No.	16-50689 (JAM)
)	CHAPTER	13
WALTER B. REDDY,)		
)	RE: ECF No.	137
DEBTOR.)		
)		
_____)		

ORDER DENYING MOTION FOR STAY PENDING APPEAL

I. PROCEDURAL HISTORY¹

On November 10, 2016, Walter B. Reddy (the “Debtor”), filed an Objection to Claim Number 3 of Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Mortgage Loan Trust 2005-10, Mortgage Pass-Through Certificates, Series 2005-10 (the “Objection to Claim 3”, ECF No. 34). On November 23, 2016, Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Mortgage Loan Trust 2005-10, Mortgage Pass-Through Certificates, Series 2005-10 (the “Creditor”), filed a Motion for Relief from the Automatic Stay (the “Motion for Relief”, ECF No. 40), with respect to the real property commonly known as 16 Briar Oak Drive, Weston, CT 06883 (the “Property”). The Property is the Debtor’s residence and the collateral securing the debt described in Objection to Claim 3.

On December 7, 2016, the Debtor filed an Objection to the Motion for Relief (the “Objection to Relief from Stay”, ECF No. 42). On December 12, 2013, the Creditor filed a Response to the Objection to Claim 3 (the “Response to Objection to Claim 3”, ECF No. 49).

¹ A detailed procedural history of this case is contained in the June 8, 2017, Memorandum and Order on Objection to Claim 3 and Second Amended Motion for Relief from the Automatic Stay (the “Memorandum and Order”, ECF No. 130).

On January 31, 2017, the Creditor filed an Amended Motion for Relief (the “Amended Motion for Relief”, ECF No. 72), and on February 22, 2017, the Debtor filed an Objection to the Amended Motion for Relief (the “Objection to the Amended Motion for Relief”, ECF No. 80). On April 4, 2017, the Creditor filed a Second Amended Motion for Relief (the “Second Amended Motion for Relief”, ECF No. 94). On April 28, 2017, the Debtor filed an Objection to the Second Amended Motion for Relief (the “Objection to Second Amended Motion for Relief”, ECF No. 106).

Between December 20, 2016, and May 31, 2017, five hearings were held on Objection to Claim 3, Response to Objection to Claim 3, the Motion for Relief, the Objection to the Motion for Relief, the Amended Motion for Relief, the Objection to the Amended Motion for Relief, the Second Amended Motion for Relief, and the Objection to the Second Amended Motion for Relief. On June 8, 2017, the Court issued a Memorandum and Order overruling Objection to Claim 3 and granting the Second Amended Motion for Relief.

On June 20, 2017, the Debtor filed a Motion for Stay Pending Appeal of the Memorandum and Order overruling Objection to Claim 3 and granting the Second Amended Motion for Relief (the “Motion for Stay Pending Appeal”, ECF No. 137). On July 10, 2017, the Creditor filed an Objection to the Motion for Stay Pending Appeal (the “Objection”, ECF No. 144). On July 25, 2017, the day of the scheduled hearing on the Motion for Stay Pending Appeal and the Objection, the Debtor filed a Reply to the Objection (the “Reply”, ECF No. 145). On July 25, 2017, a hearing was held on the Motion for Stay Pending Appeal, the Objection, and the Reply. The Debtor, *pro se*, and counsel for the Creditor appeared at the hearing and advanced their respective arguments. At the conclusion of the hearing, the matter was taken under advisement.

II. ANALYSIS²

The Creditor obtained a judgment of strict foreclosure in the Connecticut Superior Court against the Property. The Debtor then filed this Chapter 13 case, which triggered an automatic stay under 11 U.S.C. § 362 of any proceeding against the Debtor, including the foreclosure action in the Connecticut Superior Court. After hearings and a thorough consideration of the issues presented by the Debtor and the Creditor, the Second Amended Motion for Relief was granted to permit the Creditor to exercise all rights, if any, with respect to the Property. The Debtor appealed order granting the Second Amended Motion for Relief to the United States District Court for the District of Connecticut (the “District Court”), and then filed the Motion for Stay Pending Appeal.

When deciding a motion for a stay pending appeal, a court must consider four factors:

(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.

In re World Trade Ctr. Disaster Site Litig., 503 F.3d 167, 170 (2d Cir. 2007) (footnote omitted) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)).

The most significant of the four criteria is the likelihood of success on appeal. *In re Taub*, 470 B.R. 273, 278 (E.D.N.Y. 2012). However, “[t]he requisite showing of substantial possibility of success is inversely proportional to the amount of irreparable injury [plaintiff] will suffer absent the stay.” *Id.* The Court concludes that the Debtor has not established a likelihood of success on the merits because his challenge to the order granting the Second Amended Motion

² Although it is not binding on this Court, the Court is heavily persuaded by the recent mandate issued by the United States Court for Appeals for the Second Circuit on July 26, 2017, in the case of *Barretta v. Wells Fargo Bank, N.A.*, Case 3:15-cv-01781-AWT.

for Relief is barred by the *Rooker-Feldman* doctrine, which provides that the lower federal courts lack subject matter jurisdiction over claims brought by losing parties in state court that invite review and rejection of state court judgments. *Green v. Mattingly*, 585 F.3d 97, 101 (2d Cir. 2009).

The Second Circuit has set forth four requirements that must be met in order for a claim to be barred by the *Rooker-Feldman* doctrine: (1) the plaintiff must have lost in state court, (2) the plaintiff must complain of injuries caused by a state court judgment, (3) the plaintiff must invite district court review and rejection of the state court judgment, and (4) the state judgment must have been rendered before the district court proceedings commenced. *Id.*

Each of the four requirements to bar a claim under *Rooker-Feldman* doctrine have been met in this case. First, the Debtor lost in state court by virtue of the entry of the judgment of strict foreclosure. *See Benvenuto v. Mahajan*, 715 A.2d 743, 745–47 (Conn. 1998) (judgment of strict foreclosure a final judgment); *see also Vossbrinck v. Accredited Home Lenders, Inc.*, 773 F.3d 423, 427 (2d Cir. 2014) (*Rooker-Feldman* doctrine bars review of Connecticut state court judgment in strict foreclosure). Second, the Debtor claims that he will be injured by the foreclosure of the Property, which was authorized by the Connecticut Superior Court. Third, the Debtor's objection to the order granting the Second Amended Motion for Relief collaterally attacks the Connecticut Superior Court judgment of strict foreclosure and would require the District Court to declare that judgment void in order for the Debtor to prevail on the merits of his appeal. *See Kropelnicki v. Siegel*, 290 F.3d 118, 129 (2d Cir. 2002). Finally, the judgment of strict foreclosure entered by the Connecticut Superior Court was issued before the Debtor filed this Chapter 13 case.

Although the Debtor may be harmed if a stay is not granted, this factor is outweighed by the other factors to be considered when deciding a motion for stay pending appeal. *See Thapa v. Gonzales*, 460 F.3d 323, 334–35 (2d Cir. 2006) (discussing weighing of stay factors). The third factor weighs against the Debtor because the Creditor has not been able to foreclose on the Property despite being authorized to do by the Connecticut Superior Court. The fourth factor also weighs against the Debtor because there is a public interest in finality of orders. *In re Turner*, 207 B.R. 373, 379 (B.A.P. 2d Cir. 1997).

After consideration of the issues presented, and balancing the relevant factors, the Motion for Stay Pending Appeal is **DENIED**.

The Clerk's Office is directed to serve this Order on Mr. Walter B. Reddy by certified mail at 16 Briar Oak Drive, Weston, CT, 06883.

IT IS SO ORDERED at Bridgeport, Connecticut this 23rd day of August, 2017.

Julie A. Manning
Chief United States Bankruptcy Judge
District of Connecticut