

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF CONNECTICUT

IN RE:	)		
	)	CASE No.	17-50418 (JAM)
MICHAEL PORZIO,	)		
	)	CHAPTER	13
DEBTOR.	)		
	)	RE: ECF Nos.	51, 59, 64, 73
DEUTSCHE BANK TRUST COMPANY	)		
AMERICAS, AS TRUSTEE FOR	)		
RESIDENTIAL ACCREDIT	)		
LOANS, INC. MORTGAGE	)		
ASSET-BACKED PASS-THROUGH	)		
CERTIFICATES, SERIES 2005-QA10	)		
	)		
MOVANT,	)		
	)		
V.	)		
	)		
MICHAEL PORZIO,	)		
	)		
RESPONDENT.	)		

**ORDER GRANTING *IN REM* RELIEF FROM AUTOMATIC STAY**

Deutsche Bank Trust Company Americas, as Trustee for Residential Accredit Loans, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2005-QA10 (the “Movant”), having filed a Motion for *In Rem* Relief pursuant to 11 U.S.C. § 362(d)(4) dated August 30, 2017 (the “*In Rem* Motion,” ECF No. 51); and the Debtor having filed opposition to the *In Rem* Motion on September 13, 2017 (ECF No. 59), September 22, 2017 (ECF No. 64) and October 2, 2017 (ECF No. 73); and a hearing on the *In Rem* Motion having been held on September 26, 2017; and upon consideration of the record in this case, the arguments advanced in the *In Rem* Motion, the Debtor’s oppositions to the *In Rem* Motion, and at the hearing held on the *In Rem* Motion, in accordance with 11 U.S.C. § 362(d)(4); the Court finds:

1. The Movant's claim is secured by an interest in the real property commonly known as 11 Bulkley Avenue North, Westport, Connecticut (the "Property").

2. The Debtor has filed two bankruptcy petitions affecting the Property, Case No. 14-51960 and Case No. 17-50418, both of which are pending before the Court.

3. Prior to the filing of both petitions, the Connecticut Superior Court for the Judicial District of Stamford entered a judgment of strict foreclosure against the Debtor on April 29, 2014, in the case entitled *Deutsche Bank Trust Company Americas, as Trustee for Rali 2005 QA10 v. Michael Porzio, et. al*, Case No. FST-CV-11-6011134-S (the "Superior Court Foreclosure Action"),

4. The judgment of strict foreclosure was entered after an eight-day trial, during which the Debtor presented argument and evidence in opposition to the entry of a judgment of strict foreclosure.

5. The judgment of strict foreclosure found that the Movant's debt was \$521,853.27 and the value of the Property was \$415,000.00, and set the Debtor's law day as August 26, 2014.

6. The Debtor filed an appeal of the judgment of strict foreclosure and then filed his first Chapter 13 case on December 29, 2014. The appeal filed in the Connecticut Appellate Court was dismissed on August 9, 2016.

7. On February 1, 2017, a second judgment of strict foreclosure was entered in the Superior Court Foreclosure Action setting the Debtor's law day as February 28, 2017.

8. On February 27, 2017, a hearing was held in the Superior Court Foreclosure Action on the Debtor's Motion to Reopen and Vacate the second judgment of strict foreclosure. The Debtor's Motion to Reopen and Vacate was denied, but the Superior Court, exercising its equitable powers, sua sponte extended the Debtor's law day to April 18, 2017.

9. On April 18, 2017, the Debtor filed the instant Chapter 13 petition.

10. According to the Debtor's Schedule A filed on May 1, 2017, the Property is valued at \$600,000.

11. On August 29, 2017, the Movant filed proof of a claim in the Debtor's case in the amount of \$615,977.95.

12. In addition to opposing the *In Rem* Motion, on September 22, 2017, the Debtor filed an Objection to the Movant's Proof of Claim, asserting many of the same arguments that were raised in the Superior Court Foreclosure Action.

13. The federal court system, including a bankruptcy court, is not the appropriate forum in which such an appeal should be made. *See, e.g., GRP Loan, LLC v. Vaneck*, No. 3:08-CV-375 (WWE), 2008 WL 2902607, at \*1 (D. Conn. July 24, 2008) ("The history of this case demonstrates that [debtor] is attempt[ing] to relitigate issues already decided by the state trial and appellate courts. This Court is not an appropriate forum for such a challenge.").

14. The instant Chapter 13 petition was part of a scheme to delay, hinder, or defraud creditors that involved multiple bankruptcy filings affecting the Property pursuant to 11 U.S.C. § 364(d)(4)(B).

Accordingly, it is hereby

**ORDERED:** The Movant is granted *in rem* relief from the automatic stay as to the Property; and it is further

**ORDERED:** In accordance with 11 U.S.C. § 364(d)(4), if this Order is recorded in compliance with applicable State laws governing notices of interests or liens in real property, this Order shall be binding in any other case under this title purporting to affect such real property filed not later than two years after the date of the entry of this Order, except that the Debtor in a

subsequent case under this title may move for relief from this Order based upon changed circumstances or for good cause shown, after notice and hearing, *see* 11 U.S.C. § 102(1). Any Federal, State or local governmental unit that accepts notice of interests or liens in real property shall accept a certified copy of this Order for indexing and recording; and it is further

**ORDERED:** The 14-day stay of the execution of this Order provided in Federal Rule of Bankruptcy Rule 4001(a) is hereby waived; and it is further

**ORDERED:** Pursuant to 11 U.S.C. § 1301(c), to the extent that the co-debtor stay in 11 U.S.C. § 1301(a) applies, it is hereby terminated; and it is further

**ORDERED:** At or before 5:00 p.m. on October 27, 2017, the Clerk's Office shall serve this Order upon the Debtor via Certified Mail, return receipt requested, at 2 Angora Road, Westport, Connecticut 06880, which is the address listed on the Debtor's petition.

**IT IS SO ORDERED** at Bridgeport, Connecticut this 27th day of October, 2017.

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