

WDNY
02-CV-6329
Larmer

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

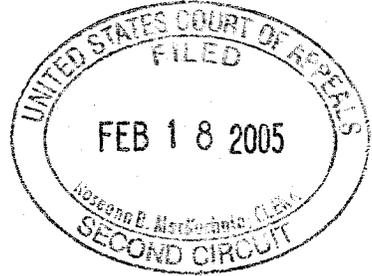
SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR THE PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, Foley Square, in the City of New York, on the 18th day of February, two thousand and five.

PRESENT:

HON. Joseph M. McLaughlin
HON. Peter W. Hall
HON. John R. Gibson*



Circuit Judges.

In re: Urban,

Debtor.

RALPH URBAN,

Appellant,

v.

No. 03-5046

WILLIAM C. HURLEY, LINDA HAAG, GERALD TUTTLE,

Appellees,

THE COUNTY OF YATES,

Movant.

* The Honorable John R. Gibson, Judge of the United States Court of Appeals for the Eighth Circuit, sitting by designation.

For Appellant:

Ralph Urban, *Pro Se*, Cooper Square,
New York.

For Appellee:

William C. Hurley, *Pro Se*, Elmira, New
York.

Appeal from the United States District Court for the Western District of New York
(David G. Larimer, J.).

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND
DECREED** that the judgment of the District Court be and it hereby is **AFFIRMED**.

Debtor-appellant, Ralph Urban (“Urban”), appeals from an order of the Western District of New York (David G. Larimer, J.) affirming a decision and order of the United States Bankruptcy Court for the Western District of New York. That decision and order resolved an adversary proceeding that had been transferred to the Western District by the United States Bankruptcy Court for the Southern District of New York.

As noted by the district court, the history of this case is particularly lengthy and tortured. Ultimately, however, this dispute has its origins in a contract by appellant to sell 75 acres of land in Yates County, New York to Linda Haag (“Haag”) and Gerald Tuttle (“Tuttle”). Several years later, Yates County commenced an *in rem* foreclosure proceeding against the property deeded to Haag and Tuttle due to their failure to pay real estate taxes. The property was foreclosed and conveyed by deed in foreclosure to William Hurley (“Hurley”). Prior to the conveyance of the property in foreclosure, appellant filed a voluntary Chapter 11 petition for bankruptcy. Appellant claims that the conveyance of the property violated the automatic stay provisions of the bankruptcy code.

In an appeal from a district court’s review of a decision by the bankruptcy court, this Court conducts an independent review of the bankruptcy court’s decision, accepting its factual findings unless clearly erroneous, but reviewing *de novo* its conclusions of law. In re AroChem Corp., 176 F.3d 610, 620 (2d Cir. 1999). Appellant has failed to show that the factual findings of the bankruptcy court were clearly erroneous or that the court erred in its conclusions of law. Appellant executed and delivered a valid deed to Haag and Tuttle conveying the 75 acres of land at issue. Because appellant did not have any ownership rights over the land, the foreclosure sale did not violate the automatic stay provisions. See 11 U.S.C. § 362(a).

Appellant also seeks a ruling that a 1991 Yates County judgment against him is “illegal, unconstitutional, and/or un-collectable [sic].” This Court does not have

jurisdiction to entertain this portion of appellant's appeal. Pursuant to the Rooker-Feldman doctrine, "inferior federal courts lack subject matter jurisdiction 'over cases that effectively seek review of judgments of state courts and that federal review, if any, can occur only by way of certiorari petition to the Supreme Court.'" Phifer v. City of New York, 289 F.3d 49, 55 (2d Cir. 2002)(quoting Moccio v. New York State Officer of Court Admin., 95 F.3d 195, 198 (2d Cir. 1996)). Finally, we need not reach the constitutional claims asserted in appellant's brief as they were not raised below. See Amalgamated Clothing and Textile Workers Union v. Wal-Mart Stores, Inc., 54 F.3d 69, 73 (2d Cir. 1995).

In light of the above, appellant's August 9, 2004 motion to strike the Yates County Sheriff's sale is now moot.

The decision and order of the district court is hereby **AFFIRMED**.

FOR THE COURT:
Roseann B. MacKechnie, Clerk

By: 

Lucille Carr, Deputy Clerk