

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

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In re

ANNE L. COGAN

Case No. 94-11235

Debtor

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ANNE L. COGAN

Plaintiff

-vs-

94-91072

DAVID MINEO and CHARLES (a.k.a. CHUCK)  
MINEO and the INTERNAL REVENUE SERVICE  
of the UNITED STATES OF AMERICA

Defendants

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ORDER AND MEMORANDUM

For the reasons set forth in the Plaintiff's "Memorandum of Law in Support of Motion for Summary Judgment," her Motion is granted, although the relief granted must be carefully circumscribed.

26 U.S.C. § 7503 is a clear, unambiguous statutory statement. No federal court cases suggest otherwise. That tax regulations or Tax Court interpret the statute restrictively in some circumstances that are not directly in point, neither binds<sup>1</sup>

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<sup>1</sup>It is nowhere suggested that this Court is here sitting in review of agency action or is otherwise bound to defer to agency action or findings.

nor persuades this Court to contrary effect.

There is no need to look further. The Debtor was authorized by the Internal Revenue Laws to redeem her property by tendering the redemption price within 180 days. The deadline date was a legal holiday, so she tendered it on the following day. She is entitled to a deed.

However, this Court is not certain that absent the consent of Defendants Mineo to the entry of judgment, the Court may enter judgment directing them to reconvey the property to her. Although "fraudulent transfer" actions are "core proceedings," this Court is not deciding that the property was fraudulently transferred. It is ruling that under the Internal Revenue Code, the Debtor duly redeemed her property, and that Defendants Mineo should be required to accept her tender of redemption price, and either that the Mineos should be compelled to reconvey title to her or that the Mineos' deed be declared void and the Internal Revenue Service compelled to issue a new deed, to the Debtor. Such ruling does not arise under Title 11. It is before this Court only because the Plaintiff is a Debtor in this Court.

If the Defendants will now consent to entry of a suitable judgment in light of the above, then it will not be necessary for the Court to determine whether it may enter judgment or whether it must, under 28 U.S.C. § 157(c)(1), transmit to the District Court

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for the Northern District of New York findings of fact, conclusions of law, and a recommendation that judgment enter accordingly.

Debtor's counsel shall seek to obtain such consents, and shall notify the Court of the results within twenty days.

SO ORDERED.

Dated: Buffalo, New York  
September 27, 1994

/s/Michael J. Kaplan

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U.S. Bankruptcy Judge, W.D.N.Y.  
Sitting by Designation in the  
Northern District of N.Y.