JAMES L. MACKLIN, Appellant,
v.
DEUTSCHE BANK NATIONAL TRUST CO., Appellee.

No. 2:15-cv-01084-JAM.

United States District Court, E.D. California.

December 18, 2015.

ORDER AFFIRMING JUDGMENT OF THE BANKRUPTCY COURT

JOHN A. MENDEZ, District Judge.

Appellee Deutsche Bank National Trust Company ("Appellee" or "Deutsche Bank") bought the real property of Appellant James L. Macklin ("Appellant" or "Macklin") at foreclosure sale. After Macklin litigated his continued right to the property in an adversary bankruptcy proceeding and lost, he litigated it again in district court, and a third time on a motion for relief from judgment back in bankruptcy court. Now appealing the order denying relief, Macklin continues to advance his unfounded theory that all courts lack jurisdiction to enter orders against him and that Deutsche Bank has no standing to defend its right in its property. For the reasons stated below, the Court affirms the bankruptcy court's order.[1]

I. FACTUAL AND PROCEDURAL BACKGROUND

In April 2006, Macklin took out a loan on his property at 10040 Wise Road in Auburn, California, secured by a deed of trust. See Appellant's Excerpts of Record ("ER") at 33. After Macklin defaulted on the loan a few years later, he sent a letter to the lender and the trustee designated on the deed of trust. See id. at 36, 67. The letter was entitled "Notice of Rescission" and stated in part:

This is constructive notice of my rescission to the above described contracts [referring to loan numbers listed in the letter]. . . . I will accept the cash amount of $125,713.46 as this represents the cash payments made by me on the debt side of the ledger, and I will expect the return of the original promissory notes as listed above so that I may retain my property. If you will not, or cannot, return the original promissory notes to me, then my deposit amount will be returned to me since it was my property to begin with. That amount is $659,000.00. No further

action will be pursued by me if the above rescission requests are fulfilled in a timely manner.

See id. at 67-68. The trustee responded to Macklin's letter advising that it was disputed whether the letter caused an automatic recession and how much money Macklin was entitled to. See id. at 70-72. The letter also stated, "If you wish to pursue your claim for rescission of the subject loan, please confirm your ability to tender the return of funds in the above approximate amount and we will submit your request to the beneficiary and/or servicer to either acknowledge the rescission or not." See id. at 72.

Macklin apparently never responded and the property was sold at foreclosure sale to Appellee Deutsche Bank. Id. at 125; Appellee's Supplemental Excerpts of Record ("SER") at 128-29.

Macklin commenced an adversary proceeding against Deutsche Bank in the Bankruptcy Court of the Eastern District of California in January 2011, alleging that the rescission letter automatically made the deed of trust void, so Deutsche Bank could not later have obtained rights to that deed of trust. ER at 74; SER at 143.

The bankruptcy court ultimately denied Macklin's motion for summary judgment and granted summary judgment in favor of Deutsche Bank. See SER at 149-50. Judgment was entered in July 2013. ER at 111. Macklin attempted to appeal the order granting summary judgment to the Bankruptcy Appellate Panel, but the Panel dismissed the appeal as untimely. Id. at 112-14; SER at 13-14. The bankruptcy case was then closed in April 2014. ER at 114.

Meanwhile, Macklin had also sued Deutsche Bank in a separate civil action which was removed to the District Court for the Eastern District of California. See Macklin v. Hollingsworth, 10-cv-01097-MCE-KJN (filed May 3, 2010). The district court stayed the case until resolution of the bankruptcy matter. See Order at 1 (Doc. #25), Macklin v. Hollingsworth, 10-cv-01097-MCE-KJN (dated Oct. 6, 2010). In February 2014, the court lifted the stay, and later ruled that claim preclusion barred Macklin's claims — which were essentially identical to those raised in his bankruptcy case. See Order at 2 (Doc. #29), Macklin v. Hollingsworth, 10-cv-01097-MCE-KJN; Memorandum and Order at 13-14 (Doc. #87), Macklin v. Hollingsworth, 10-cv-01097-MCE-KJN.

Before the district court entered judgment, Macklin filed a motion to reopen the adversary proceeding in bankruptcy court. See ER at 114. The bankruptcy court

granted that motion, and Macklin filed a motion for relief under Federal Rule of Civil Procedure 60(b), contending that the earlier bankruptcy court orders were "void." Id. at 115. Macklin argued that he should not be bound by the court's prior orders, because "[Deutsche Bank] should not have been allowed to defend itself against the claims asserted by Macklin, and that it is `unfair' for Macklin to be bound by the orders and judgment in this litigation[.]" SER at 18 (summarizing Macklin's arguments and the bases for his motion). The bankruptcy court denied Macklin's motion. ER at 118-19.

Macklin now appeals the bankruptcy court's denial of his Rule 60(b) motion. Id. at 119. Appellee Deutsche Bank has elected to proceed in the district court (Doc. #1), and this Court[2] has jurisdiction pursuant to 28 U.S.C. § 158(a).

II. ISSUES ON APPEAL

Macklin attacks the jurisdiction of the court below and contests whether Deutsche Bank had standing. Specifically, he raises two issues on appeal in regard to the bankruptcy court's order denying his Rule 60(b) motion: whether the bankruptcy court erred in determining that (1) it had jurisdiction and (2) Deutsche Bank had standing, despite Macklin's purported rescission letter.

III. OPINION

A. Legal Standard

The parties disagree about what legal standard applies here. Macklin contends that the order below should be reviewed "based on a void judgment standard." Reply at 4. That standard, according to Macklin, is that the Court should reverse the bankruptcy decision if "the jurisdictional error was `egregious.'" Appellant's Opening Br. at 4. Deutsche Bank states that an abuse of discretion standard applies. Appellee's Opening Br. at 2.

The Court finds that the bankruptcy court's decision is subject to review for abuse of discretion.

Lemoge v. United States, 587 F.3d 1188, 1191-92 (9th Cir. 2009); In re Summerville, 361 B.R. 133, 139 (B.A.P. 9th Cir. 2007) ("We review a bankruptcy court's ruling on a motion for relief from judgment (FRCP 60(b)) for abuse of discretion.") (citation omitted). "A bankruptcy court abuses its discretion if it applied the wrong legal standard or its findings were illogical, implausible or without support in the record." In re Jensen, 2015 WL 1019557, at *3 (B.A.P. 9th

Cir. Mar. 10, 2015) (citing TrafficSchool.com, Inc. v. Edriver Inc., 653 F.3d 820, 832 (9th Cir. 2011)).

B. Analysis

Macklin's theory is that the letter he sent to the lender and trustee immediately caused a rescission of the mortgage, making the mortgage contract "void." Because the contract was void, according to Macklin, Deutsche Bank had no standing to litigate its rights to the security underlying that contract (i.e., the property), and the Court had no jurisdiction (either personal jurisdiction or subject matter jurisdiction) to consider such a void contract. See, e.g., Appellant's Opening Br. at 10 ("Appellee was unable to make such assertion [that it holds beneficial interest in the property] based on the void contract. Personal jurisdiction and standing were unavailing."); id. at 13 ("The [bankruptcy] court lacked subject matter and in personum jurisdiction over a contract that was void, [sic] no relief could be found for Appellee for a void contract, thus, there was not subject matter or personal jurisdiction for the court to hear Appellee.") (emphasis in original).

Macklin's argument misconstrues the concepts of standing and jurisdiction. The court below properly determined that Deutsche Bank had standing and that the court had jurisdiction to hear the issues before it. See SER at 33-37. It applied the correct legal standards in evaluating standing and jurisdiction, as described below.

Standing requires that the litigant show "an invasion of a legally protected interest that is concrete and particularized and actual or imminent." Arizonans for Official English v. Arizona, 520 U.S. 43, 64 (1997) (citing Lujan v. Defenders of Wildlife, 504 U.S. 555, 560 (1992)) (quotation marks omitted); see SER at 36 (applying this standard). Deutsche Bank throughout this litigation has contested whether the purported rescission letter's language in fact effected a rescission and whether the amount of money Plaintiff sought through rescission was accurate. Deutsche Bank has also asserted that it had rights under the deed of trust lawfully authorizing the foreclosure sale. These issues show a clear, concrete, and particularized interest in the subject matter of this case, and Deutsche Bank has (and has had throughout the life of this case) standing to litigate this interest.

Subject matter jurisdiction is proper in federal court where the well-pleaded complaint states a cause of action arising under federal law, or where the parties present complete diversity of citizenship. 28 U.S.C. §§ 1331, 1332. Federal courts also have exclusive jurisdiction over property in the bankruptcy estate. 28 U.S.C. § 1334(e).

The case here arose when Macklin filed an adversary complaint to adjudicate ownership of the property he claimed in his bankruptcy estate. See generally SER at 333-378. Macklin's complaint asserted federal claims against Deutsche Bank, such as violations of the federal Truth in Lending Act ("TILA"), codified at 15 U.S.C. § 1601 et seq. See id. at 357. Subject matter jurisdiction was therefore not lacking. See id. at 34-35 (applying the same standards).

Personal jurisdiction was also not lacking. Deutsche Bank availed itself of the court's jurisdiction, as evidence by (among other things) appearing in the case and filing motions. See Benny v. Pipes, 799 F.2d 489, 492 (9th Cir. 1986) amended, 807 F.2d 1514 (9th Cir. 1987).

Nonetheless, Macklin argues that his theory is supported by two cases— **Jesinoski** v. Countrywide Home Loans, Inc., 135 S. Ct. 790 (2015) and Merritt v. Countrywide Financial Corp., 759 F.3d 1023 (9th Cir. 2014). See Appellant's Opening Br. at 8, 12, 18-19. But Macklin's interpretation of these cases stretches their holdings and reasoning beyond recognition. In reality, neither case supports his position.

Jesinoski held that a borrower need not file a TILA lawsuit within three years, and rather, TILA's three-year requirement refers to the period within which the borrow must notify the lender of her intent to rescind. 135 S. Ct. at 791. Merritt held that a plaintiff need not plead ability to tender in order to state a TILA claim**, although she may need to prove this ability by the summary judgment stage.** 759 F.3d at 1031, 1033. **Neither case considered, or even suggested, that a borrower's letter indicating a desire to rescind a loan contract automatically divests the court of jurisdiction or deprives any party of standing. Indeed, this Court knows of no District Court, Ninth Circuit or Supreme Court authority that would support such a contention. As described above, Macklin's theory misinterprets the concepts of jurisdiction and standing, and is entirely incorrect.**

The court below therefore did not abuse its discretion. It applied the correct legal standard to accurately determine that it had jurisdiction and that Deutsche Bank had standing.

IV. ORDER

For the reasons set forth above, the Court AFFIRMS the order of the bankruptcy court denying Macklin's Rule 60(b) motion.

IT IS SO ORDERED.

[1] This motion was determined to be suitable for decision without oral argument. Fed. R. Bankr. P. 8019(b)(3). The hearing was scheduled for December 2, 2015.

[2] The parties filed notices of related case to inform the Court of the similarity between this bankruptcy matter and the district court action Macklin filed in 2010. See Notice of Related Case (Doc. #4). Chief District Judge Morrison England declined to relate the cases so the matter remains before this Court. See Non-Related Case Order (Doc. #107), Macklin v. Hollingsworth, 10-cv-01097-MCE-KJN.