



SO ORDERED.

SIGNED this 5th day of August, 2016.

Catharine R Aron

UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION**

IN RE:

George S. Reed

Debtor

Case No. 11-50343

ORDER DENYING MOTION TO RECONSIDER

This matter is before the Court on a Motion to Reconsider (“Motion”) (Docket #52) an Order Granting Vanderbilt Mortgage & Finance, Inc. (hereinafter “Secured Creditor”) Relief from the Automatic Stay (Docket #50) regarding 2001 CMH Deerfield 28 X 60 Manufactured Home (hereinafter “Property”). For the reasons stated herein, the Motion will be denied.

Findings of Fact

George S. Reed (the “Debtor”) filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code on March 4, 2011. The Chapter 13 Plan was confirmed on May 25, 2011 and had the following provisions: (1) the Debtor would retain the Property, (2) the Property was

valued at \$28,000, (3) Secured Creditor would be paid the sum of \$28,000 with interest at the Till rate, and (4) the balance of the claim would be paid as a general unsecured claim.

In as much as this was a Chapter 13 case, the Debtor was permitted to “cram down” the debt owed to secured creditors. Each month the Debtor was to pay \$960.00 to the Chapter 13 Trustee and the Chapter 13 Trustee was to pay \$535.00 to the Secured Creditor. Had the plan been successful, the debt to the Secured Creditor would have been paid in full at the completion of the Plan. The Debtor complied with the terms of the plan for a period of time and paid a total of \$53,878.75 to the Trustee. The Debtor fell on hard times and stopped making payments to the Chapter 13 Trustee on or about November 2015. Due to the non-payment, the Trustee moved to dismiss the case. Prior to the hearing on dismissal, the Debtor filed a voluntary notice of conversion to Chapter 7. The case was converted on February 4, 2016.

At the time of the conversion, the Debtor was behind on the payments to the Secured Creditor.

Analysis

A Debtor has three options as to the disposition of his home when there has been a conversion from Chapter 13 to Chapter 7 and the Debtor is NOT CURRENT on the mortgage:

1. The Debtor may reaffirm the Debt pursuant to 11 U.S.C. § 524. The Debtor filed a Statement of Intent to reaffirm the debt with the Secured Creditor. However, a reaffirmation agreement must be accepted by the Secured Creditor and there was no acceptance in this case¹;

2. The Debtor may redeem the Property pursuant to 11 U.S.C. § 722. The mobile home is considered personal property for the purposes of redemption. A debtor may redeem tangible personal property intended for personal, family or household use, from a lien securing a dischargeable consumer debt by paying the holder of such lien the amount of the allowed

¹Ride through is only available if the debtor is current.

secured claim. The Debtor did not state an intention to redeem the Property nor did the Debtor redeem the mobile home in the time allowed under the Bankruptcy Code²; or

3. The Debtor may surrender the property and the debt to the Secured Creditor is discharged. The Debtor has not surrendered the property.

The Secured Creditor moved for relief from stay asking for permission to pursue state law rights. The Court reviewed the motion and found that cause existed to grant the motion. The Secured Creditor has not received any payments from the Trustee since November 2015, the property is presently unoccupied³, and the value of the collateral is diminishing. It is undisputed that the balance of the secured debt \$51,871.09 greatly exceeds the value of the collateral.

Conclusion

Therefore the court finds there is no reason to grant the Motion to Reconsider, and it is ORDERED, ADJUDGED AND DECREED THAT THE MOTION IS DENIED.

END OF DOCUMENT

² Debtors must redeem no later than 45 days of the filing of the statement of intention. Fed. R. Bankr. P. 1009(b).

³ Debtor is presently incarcerated.

SERVICE LIST

George S. Reed

OPUS # 1455118

PO Box 460

Badin, NC 28009

STOKES-NC

William P Miller

Bankruptcy Administrator

101 South Edgeworth Street

Greensboro, NC 27402

W. Joseph Burns

Trustee

PO Box 21433

Winston-Salem, NC 27120-1433

John W. Fletcher, III

Henderson Nystrom Fletcher & Tydings

831 East Morehead Street

Suite 255

Charlotte, NC 28202