IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 93-3849

Summary Calendar

IN THE MATTER OF:
OWEN MCMANUS and ALBERTA V. MCMANUS,
Debtors.

OWEN MCMANUS and ALBERTA V. MCMANUS,
Appellants,

versus

CADLE COMPANY, THE,
Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana
(CA 93-1663 H)

(July 18, 1994)

Before KING, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Owen and Alberta McManus owe The Cadle Company a judgment in the principal amount of $ 342,950.78, which Cadle claims gives rise to an obligation after interest and other additions of $ 487,135.22. The McManuses filed a voluntary petition under Chapter

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*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

11 of the Bankruptcy Code automatically staying recovery of the judgment. Cadle subsequently filed a petition to lift the stay under 11 U.S.C. § 362(d)(2) with respect to the McManus residence, which is worth between $ 225,000 and $ 255,500 and on which Cadle has a judicial mortgage. The bankruptcy court lifted the stay and the district court affirmed. The McManuses appeal. We Affirm.

The statutory scheme confers authority to lift the stay if:

> (A) the debtor does not have an equity in such property; and
> (B) such property is not necessary to an effective reorganization.

11 U.S.C. § 362(d)(2). Equity is the value of property in excess of all encumbrances against it. See In re Sutton, 904 F.2d 327, 329 (5th Cir. 1990) ("'Equity' as used in section 362(d) portends the difference between the value of the subject property and the encumbrances against it.") (citations omitted); In re New Era Co., 125 B.R. 725, 728 (S.D.N.Y. 1991) (citing In re 6200 Ridge, Inc., 69 B.R. 837, 842 (Bankr. E.D. Pa. 1987)); In re Cardell, 88 B.R. 627, 631 (Bankr. D.N.J. 1988) (citing Stewart v. Gurley, 745 F.2d 1194, 1195 (9th Cir. 1984); In re Faires, 34 B.R. 549, 551 (Bankr. W.D. Wash. 1983)). The McManuses have no equity in their residence because it is not worth enough to satisfy their debt to Cadle.

The McManuses contend, however, that the bankruptcy court should have considered a piece of property owned by a different party, the New Life Christian Center, in assessing whether the McManuses had equity in their home. Owen McManus works for the New Life Christian Center, and he incurred his present debt to Cadle as guarantor of an obligation owed by the New Life Christian Center.

The McManuses appraise the New Life Christian Center property at $ 516,600. This land could satisfy in full the debt owed to Cadle.

The McManuses' argument blurs the distinction between two sections of the bankruptcy code. Section 362(d)(1) allows a creditor to seek relief from an automatic stay "for cause, including the lack of adequate protection of an interest in property of such party in interest." 11 U.S.C. § 362(d)(1). Whereas § 362(d)(1) requires inquiry into whether a creditor has alternative means for recovery, § 362(d)(2) depends only on the relative value of property and the debt it secures. See, e.g., In re New Era Co., 125 B.R. at 728-29 (citing Stewart v. Gurley, 745 F.2d 1194, 1196 (9th Cir. 1984); In re Garshal Realty, 98 B.R. 140, 1153 (Bankr. N.D. N.Y. 1989)). The cases the McManuses cite that were decided under § 362(d)(1) therefore do not support their position. See, e.g., In re Philadelphia Consumer Discount Co., 37 B.R. 946 (E.D. Pa. 1984).

The McManuses provide one case that reached the opposite result. See In re Cardell, 88 B.R. 627, 632 (Bankr. D.N.J. 1988). In In re Cardell, however, the court in determining equity considered other property of the debtor, not property owned by a different party. See id. at 632 (finding debtor had equity under § 362(d)(2) because companies debtor owned and controlled provided alternative sources to satisfy creditor's debt). The McManuses provide no case under 11 U.S.C. § 362(d)(2) in which a court assessed equity by considering such sources. We find In re Cardell unpersuasive and see no reason to extend its holding.

The McManuses also argue that they require their residence for a successful reorganization. If this were true, lifting the stay would be inappropriate. See 11 U.S.C. § 362(d)(2)(B). As the district court noted, however, the McManuses possess a single asset which is burdened with more debt than its value. They do not assert that they submitted a reorganization plan or that they could reorganize successfully. The McManuses acknowledge that they have the burden to establish that the property is necessary to a successful reorganization. See In re Bryan, 69 B.R. 421 (Bankr. D. Mont. 1987). The McManuses have not met this burden.

We reject all other arguments the McManuses raise.

AFFIRMED.