[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 13-13867
Non-Argument Calendar

D.C. Docket No. 3:13-cv-00091-CAR,
BKCY No. 13-03060-JPS

In Re: TRINA RENEE BANKS,

Debtor.

BANK OF AMERICA, NA,

Plaintiff - Appellant,

versus

TRINA RENEE BANKS,

Defendant - Appellee.

Appeal from the United States District Court
for the Middle District of Georgia

(March 11, 2014)

Before PRYOR, MARTIN, and JORDAN, Circuit Judges.

PER CURIAM:

Bank of America, N.A. appeals from the district court's order and final judgment affirming the bankruptcy court's order in an adversary proceeding brought by Trina Renee Banks in her Chapter 7 bankruptcy. Ms. Banks has two mortgage liens on her house; the first has an outstanding balance that exceeds the current value on Ms. Banks's house and the second, at issue in this case and held by Bank of America, is junior to the first lien. Bank of America's lien is considered to be wholly "underwater" in that the debt secured by the first lien exceeds the current value of the house. Accordingly, Ms. Banks sought to have Bank of America's junior lien voided under § 506(d) of the Bankruptcy Code. *See* 11 U.S.C. § 506(d). She did so because binding circuit precedent holds that § 506(d) authorizes a Chapter 7 debtor to "strip off," *i.e.* remove in its entirety, a junior lien where the amount of lien exceeds the value of the house. *See McNeal v. GMAC Mortgage, LLC*, 735 F.3d 1263, 1266 (11th Cir. 2012); *Folendore v. SBA*, 862 F.2d 1537, 1539 (11th Cir. 1989). Given circuit precedent, the parties entered a stipulated order, which was entered by the bankruptcy court and affirmed by the district court, resolving the adversary proceeding in favor of Ms. Banks and preserving the issue for appellate review.

Bank of America argues that the Supreme Court's opinion in *Dewsnup v Timm*, 502 U.S. 410 (1992), rejected our circuit's construction of § 506(d) as laid out in *Folendore* and that we should re-visit this issue. However, as Bank of America also acknowledges, another panel of this Court, in *McNeal*, recently rejected that very argument, concluding that *Dewsnup* was not clearly on point because it disallowed only a "strip down" of a partially secured mortgage lien and not a "strip off" of a wholly unsecured mortgage lien, and thus did not abrogate *Folendore*. *See McNeal*, 735 F.3d at 1265-66.

Because we are bound, as a panel, to follow our circuit's prior decisions in *Folendore* and *McNeal*, we affirm the bankruptcy court's decision voiding Bank of America's lien on Ms. Banks' house.[1]

AFFIRMED.

[1] By separate order, Bank of America's petition for initial hearing en banc has been denied. Bank of America remains free, of course, to seeking rehearing of this panel's decision.