

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 14-10803
Non-Argument Calendar

D.C. Docket No. 6:14-cv-00078-GAP; 6:13-bk-05337-KSJ

In Re: DAVID B. CAULKETT,

Debtor.

BANK OF AMERICA, N.A.

Plaintiff-Appellant,

versus

DAVID B. CAULKETT

Defendant-Appellee.

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

(May 21, 2014)

Before MARCUS, PRYOR, and EDMONDSON, Circuit Judges.

PER CURIAM:

Bank of America, N.A. appeals the district court's affirmance of the bankruptcy court's order voiding a wholly unsecured second priority lien on residential property owned by a Chapter 7 debtor. The issue on appeal is whether a Chapter 7 debtor is allowed to "strip off" a second priority lien on his home, pursuant to 11 U.S.C. § 506(a) and (d), when the first priority lien exceeds the value of the property.

We addressed recently this issue and concluded that a wholly unsecured junior lien -- such as the one held here by Bank of America -- is voidable under section 506(d). See McNeal v. GMAC Mortg., LLC (In re McNeal), 735 F.3d 1263 (11th Cir. 2012) (citing Folendore v. United States Small Bus. Admin., 862 F.2d 1537 (11th Cir. 1989)). Bank of America acknowledges that this panel is bound by the Court's decisions in McNeal and Folendore, but reserves the right to seek reconsideration of the issue by the en banc Court. Cf. United States v. Smith, 122 F.3d 1355, 1359 (11th Cir. 1997) ("Under the prior panel precedent rule, we are bound by earlier panel holdings . . . unless and until they are overruled en banc or by the Supreme Court.").

AFFIRMED.