

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IRENE DELEONIBUS : CIVIL ACTION
 :
 v. :
 :
 UNITED STATES OF AMERICA : NO. 97-4852

MEMORANDUM AND ORDER

HUTTON, J.

May 28, 1998

Presently before the Court are Defendant the United States of America's Motion for Summary Judgment (Docket No. 6) and Plaintiff Irene DeLeonibus's Response and Cross Motion for Summary Judgment (Docket No. 7). For the reasons that follow, Defendant's Motion is granted and Plaintiff's Motion is denied.

I. BACKGROUND

In this action, Plaintiff Irene DeLeonibus asks the Court to quiet title in an escrowed fund of \$37,638.49--one-half the net proceeds from the sale of her marital residence--which the United States would apply towards the tax obligations of her husband, Carlo DeLeonibus, now deceased. The United States responds that DeLeonibus' claim is barred by the doctrine of res judicata.

Until the series of events that led the present dispute, Irene and Carlo DeLeonibus owned a home located at 928 Randolph Drive, Yardley, Bucks County, Pennsylvania, as tenants by the entireties. In the mid to late 1980's, the DeLeonibus's became delinquent in their federal taxes, and the Internal Revenue Service ("IRS") assessed both husband and wife with income and trust fund tax

liabilities far in excess of what either could then afford. Although neither party has briefed the Court on the procedural history of the tax dispute, evidently at some point before 1994 the IRS served the DeLeonibus's with a demand for payment and, after the DeLeonibus's failed to pay, federal tax liens attached to all of their property pursuant to 26 U.S.C. § 6321 (1994).

On September 4, 1994, facing the above tax liabilities and a pending mortgage foreclosure action against the DeLeonibus home, Plaintiff Irene DeLeonibus filed a voluntary petition for bankruptcy under Chapter 13 of the Bankruptcy Code, 11 U.S.C. §§ 1301-1330 (1994), in the United States Bankruptcy Court for the Eastern District of Pennsylvania. Plaintiff's husband Carlo DeLeonibus did not join her in the petition and was never a party to the bankruptcy proceeding.

In the course of her bankruptcy case, Plaintiff initiated an adversary proceeding against the United States to determine her tax liability. At some point thereafter, the parties reached a six paragraph Stipulation and Order Settling Adversary Proceeding (the "Settlement"), the signatories of which were Plaintiff's attorney Ann Hook Belknap and United States Department of Justice attorney Beverly A. Moses.¹ By Order dated March 11, 1996, United States Bankruptcy Judge Judith K. Fitzgerald approved the Settlement. (See Def's Mot. for Summ. J. Ex. A).

¹ Although the Settlement is not dated, the language of paragraphs three and four suggest that it was reached on February 26, 1996.

The Settlement's first three paragraphs recite that the IRS will amend its secured claim in the underlying bankruptcy proceeding from \$191,518.77 to \$10,000.00, and that interest will accrue on that amount at the statutory rate beginning February 26, 1996. (See id.). The Settlement then continues:

4. Irene DeLeonibus shall satisfy the secured claim of the Internal Revenue Service from the sale of the marital home located at 927 Randolph Drive, Yardley, Bucks County, Pennsylvania and agrees to sale [sic] this property within one year from February 26, 1996.

5. Upon the sale of the marital home, one-half of the net proceeds (representing Carlo Deleonibus's [sic] interest in the property) shall be held in escrow by debtor's attorney or other authorized closing attorney for the purposes [sic] of satisfying, to the extent possible, Carlo Deleonibus' [sic] outstanding trust fund and income tax liabilities.

6. Upon full payment of the Internal Revenue Service's claim with interest, as described above, the Internal Revenue Service will release its liens against the property of Irene Deleonibus [sic].

(Id.). Therefore, the Settlement contemplated that at some time before February 26, 1997 Plaintiff would (1) sell her marital residence, (2) apply her half of the net proceeds towards her \$10,000 obligation to the IRS, and (3) place the remaining half of the net proceeds, "representing Carlo Deleonibus's [sic] outstanding trust fund and income tax liabilities," in escrow "for the purposes [sic] of satisfying, to the extent possible, Carlo Deleonibus' [sic] outstanding trust fund and income tax

liabilities." (Id.). Carlo DeLeonibus, who faced liabilities distinct from those of his wife--particularly after the Settlement, was never a party to the agreement.

On June 13, 1996, before Plaintiff sold her home in compliance with ¶ 4 of the Settlement, Carlo DeLeonibus died. Four months later, on October 10, 1996, Plaintiff obtained the Bankruptcy Court's approval of her proposal to sell the marital residence for \$175,000. Plaintiff then completed the sale and paid the IRS the agreed upon \$10,000. As required by ¶ 5 of the Settlement, and pursuant to a Bankruptcy Court Order dated November 14, 1996, Plaintiff then deposited one-half of the net proceeds--a fund of \$37,638.49--into an escrow account with Trinity Abstract, Inc.² Thereafter, Plaintiff moved the Bankruptcy Court to construe the parties' Settlement and determine the validity and extent of the IRS's interest in the escrowed funds in light of her husband's intervening death.

In the Bankruptcy Court, Plaintiff argued that as a consequence of her husband's death she became the sole owner of the marital residence, and that because she had already satisfied her own tax obligations with the \$10,000 payment, the IRS had no valid interest in the remaining proceeds. See In re Irene M. DeLeonibus, Bankruptcy No. 94-15862DWS, Slip Op. at 3 (Bankr. E.D.Pa. April 24, 1997). Her position then, as now, was that because she and her

² This fund is now held in escrow by the United States c/o Beverly Moses Katz, Esquire. By Order dated November 12, 1997, this Court approved the parties' Consent Decree Transferring Escrow Funds to United States of America Pending Outcome of Litigation.

husband had held their marital residence as tenants by the entirety, upon her husband's death she became the sole owner in fee by operation of Pennsylvania property law. Accordingly, at the time of the sale, the proceeds belonged to her exclusively, free and clear of the outstanding obligations of her husband. On this basis, Plaintiff petitioned the Bankruptcy Court for an Order directing Trinity Abstract, Inc. to pay the escrowed funds directly to her.

In response, the IRS contended that the niceties of Pennsylvania property law were irrelevant, and focussed instead on the mutual promises contained in the Settlement document. Specifically, it argued that Plaintiff "agreed as a material term of the [Settlement] that the Fund would be escrowed for the purposes of satisfying Mr. DeLeonibus' tax liability and she cannot now disavow that part of her agreement while reaping the benefit of the reduction in her claim from \$191,518 to \$10,000." Id. at 3-4. From this, the IRS concluded that the escrowed funds should be released to it and applied towards Carlo DeLeonibus's unpaid tax liabilities.³

In its April 24, 1997 Memorandum Opinion, the Bankruptcy Court granted neither party the relief it sought. Construing ¶ 5 of the Settlement, the court found that the parties' clear intent at the time of signing was that Plaintiff place one-half of the net sale

³ As in the Bankruptcy proceeding, the United States has not briefed this Court as to the nature of its liens or other rights against either Irene or Carlo DeLeonibus, or the property of either. See DeLeonibus, Bankruptcy No. 94-15862DWS, Slip Op. at 3 n.4.

proceeds in escrow for purposes of satisfying Carlo DeLeonibus's tax obligations. The court rejected Plaintiff's argument that she owned the fund as proceeds from the sale of property to which she had succeeded by right of survivorship, finding that her ownership status at the time of sale was irrelevant to the determination of the issue. See id. at 8. The court found that, under the Settlement, Plaintiff "had the absolute obligation to turn over the Fund to the escrow agent and cannot be relieved of that obligation because the Fund is owned solely by her as opposed to owned by her as entirety property as anticipated when her agreement was made with the IRS." Id. at 6.

The Bankruptcy Court found that the Settlement went no further than requiring Plaintiff to escrow the remaining funds, however. See id. at 8. It did not direct how the escrow agent was to dispose of the funds. See id. In the concluding paragraph of the Memorandum Opinion, the court stated:

Having concluded that Debtor is required to perform the escrow agreement, I also conclude that she is not required to do anything further to fulfill her part of the bargain. The IRS's demand that the Fund be turned over to it goes beyond the terms of the [Settlement]. The [Settlement] essentially safeguarded the Fund so that the IRS could pursue its claim against Mr. DeLeonibus. Clearly Debtor was not in a position to pay Mr. DeLeonibus' liability out of his own assets then. She cannot be compelled to do so now. Rather, the IRS is left to pursue the Fund as payment for its claim as it would have had Mr. DeLeonibus lived. Whether he would have had defenses to the claim that his estate can assert is unknown to me as is how it expected to secure the release of the escrowed funds if Mr. DeLeonibus had lived. These

issues are beyond the scope of this dispute which merely seeks an interpretation of the [Settlement].

Id. at 8.

Plaintiff filed neither a motion for reconsideration, nor an appeal challenging the Bankruptcy Court's decision. Instead, on July 29, 1997 Plaintiff filed the instant suit to quiet title in the escrowed funds. Plaintiff has since received a discharge from the Bankruptcy Court on December 19, 1997.

In its Motion for Summary Judgment, the United States argues that Plaintiff's quiet title action is an attempt to relitigate matters already resolved by the Bankruptcy Court, and is therefore barred by the doctrine of res judicata.

II. DISCUSSION

A. Standard for Summary Judgment

A court may grant summary judgment where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). In considering the motion, the court must draw all inferences in the light most favorable to the nonmovant. Big Apple BMW, Inc. v. BMW of N. Am., Inc., 974 F.2d 1358, 1363 (3d Cir. 1992), cert. denied, 507 U.S. 912 (1993). Under the Rule 56 framework, the moving party bears the initial burden of proving that there exists no triable issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317,

323 (1986). Where it has done so, the burden shifts, and the nonmovant must present affirmative proof that triable issues remain or else face summary judgment. Fed. R. Civ. P. 56(e). The nonmovant cannot survive summary judgment merely by insisting on its interpretation of the facts, or by relying on unsubstantiated allegations, general denials, or vague statements. Id.; Trap Rock Indus., Inc. v. Local 825, 982 F.2d 884, 890 (3d Cir. 1992).

Here, the parties present no factual dispute at all, but rather ask the Court to make a purely legal determination of the status of the escrowed proceeds.

B. Res Judicata

The doctrine of res judicata, or claim preclusion, gives a prior judgment dispositive effect, and bars subsequent litigation based on any claim that was, or could have been, raised in the prior proceeding. See Board of Trustees of Trucking Employers v. Centra, 983 F.2d 495, 504 (3d Cir. 1992). This is true regardless of whether the prior decision was correctly decided, see, e.g., Federated Department Stores, Inc. v. Moitie, 452 U.S. 394, 398 (1981), as the doctrine exists precisely to draw the line at which the priorities of the legal system shift from accuracy to finality. The doctrine accepts the risk of inaccuracy in the individual case in exchange for what courts have determined to be greater benefits—repose and the reliability of final judgments over time, and across the entire legal system. See generally 18 Charles A. Wright, Arthur R. Miller, et al., Federal Practice and Procedure §

4403 (2d ed. 1996).

To establish the affirmative defense of res judicata, the party asserting it must establish that: (1) the first suit resulted in a final judgment on the merits; (2) the second suit involves the same parties or their privies; and (3) the second suit is based on the same cause of action as the first. See United States v. Athlone Indus., Inc., 746 F.2d 977, 983 (3d Cir. 1984); Harding v. Duquesne Light Co., 1995 WL 916926, *2 (W.D.Pa. August 4, 1995). DeLeonibus concedes that this matter involves the same parties and same cause of action, (see Pl.'s Mot. for Summ. J. 5), which leaves the Court only to decide whether the Bankruptcy Court rendered a final judgment on the merits.

Because bankruptcy proceedings may continue indefinitely, and because many discrete subsidiary determinations often arise in the administration of an estate, the courts have adopted a flexible notion of finality in the bankruptcy context. See In re Baudoin, 981 F.2d 736, 742 (5th Cir. 1993) (finding bankruptcy court orders "authorizing the sale of part of the estate or confirming such sale are final judgments on the merits for res judicata purposes, even though the order neither closes the bankruptcy case nor disposes of any claim"); In re After Six, Inc., 167 B.R. 35, 40 (E.D.Pa. 1994); In re Oglesby, 158 B.R. 602, 604 (E.D.Pa. 1993) ("It is clear that the definition of finality in the context of bankruptcy litigation is broader than the definition that applies in ordinary civil litigation."). See generally 16 Federal Practice and Procedure § 3926.2 at 282-88. Accordingly, "to be final, an order in a bankruptcy proceeding need only conclusively determine a discrete

dispute within the larger case; it need not dispose of the entire bankruptcy proceeding." . In re After Six, 167 B.R. at 40. This is because

[a] court cannot wait until the end of the case to allow the appeal, because final disposition in bankruptcy ... depends on prior, authoritative disposition of subsidiary issues. The separable disputes that can be handled as individual cases may be dealt with as they arise, the better to advance the end of the whole bankruptcy case.

In re Oglesby, 158 B.R. at 604-05 (quoting In Matter of Kilgus, 811 F.2d 1112, 1116 (7th Cir. 1987)).

In her Motion, DeLeonibus asserts that the Bankruptcy Court did not reach a final determination as to the status of the escrowed funds. She states that:

The Court did not decide the issue of whether the change in ownership of the Plaintiff's marital home, as a result of the death of her spouse, extinguished, by operation of Pennsylvania law, the claims of the IRS to the proceeds from the sale. Although the plaintiff brought this issue before the Bankruptcy Court, Judge Sigmund's opinion does not address the issue. Accordingly, res judicata does not bar the instant case from a trial on the merits.

(Pl.'s Mot. for Summ. J. 5).

This position, however, is incorrect and, further, misconceives the nature and function of res judicata. In its Memorandum and Opinion, the Bankruptcy Court found that questions of Pennsylvania property law were immaterial to the outcome of the case. See In re DeLeonibus, Slip Op. at 7-8. As to DeLeonibus' claim to ownership of the escrowed proceeds, the court undoubtedly

found that she was not their outright owner, or else it would have granted her the relief she sought--namely the return of the funds. Construing the last paragraph of the Bankruptcy Court's opinion, the court determined that the funds existed in some ambiguous state of ownership suspended between the IRS and the estate of Plaintiff's husband. See id. at 8. Therefore, there is no question that the Bankruptcy Court made a final determination that Plaintiff was not their owner.

More fundamentally, however, Plaintiff's case is barred because *res judicata* includes within its terminal scope any argument that was or could have been made, as to any issue that was or could have been decided. If the Bankruptcy Court dodged or wrongly decided a dispositive issue, Plaintiff's proper procedural response was to file an appeal or motion for reconsideration. Having failed to do either, Plaintiff left the Court in a posture wherein it entirely lacks authority to alter or amend legal determinations now on the books. Regardless of this Court's view of the merits, it is bound to accept that of the Bankruptcy Court, because the very purpose of *res judicata* is to prevent a subsequent court from inquiring into matters that have once been finally disposed. Therefore, whether Plaintiff's argument was raised or not, and whether the Bankruptcy Court addressed it or not, this action is now barred by the Bankruptcy Court's April 24, 1997 Memorandum and Opinion, the same as the United States' previous failed arguments are now merged into it.

III. CONCLUSION

For the foregoing reasons, the Court finds that Plaintiff's present action is barred by the doctrine of res judicata.

An appropriate Order follows.

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O R D E R

AND NOW, this 28th day of May, 1998, upon consideration of Defendant the United States of America's Motion for Summary Judgment and Plaintiff Irene DeLeonibus's Response and Cross Motion for Summary Judgment, IT IS HEREBY ORDERED that:

- (1) Defendant's Motion for Summary Judgment is **GRANTED**; and
- (2) Plaintiff's Motion for Summary Judgment is **DENIED**.

IT IS FURTHER ORDERED that judgment shall be entered in favor of Defendant the United States of America and against Plaintiff Irene M. DeLeonibus.

BY THE COURT:

HERBERT J. HUTTON, J.