

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:

ALLEN JOHN BARTLETT,
DAWN MARIE BARTLETT,
Debtors.

Chapter 13 Case
05-10340

UNITED STATES OF AMERICA,
Plaintiff,

v.

ALLEN JOHN BARTLETT and
DAWN MARIE BARTLETT,
Defendants.

Adversary Proceeding
06-1021

ALLEN JOHN BARTLETT and
DAWN MARIE BARTLETT,
Plaintiffs,

v.

UNITED STATES OF AMERICA,
Defendant.

Adversary Proceeding
05-1038

Appearances: Geoffrey Walsh, Esq.
Vermont Legal Aid
Springfield, VT
Attorney for Defendants

Melissa Ranaldo, Esq.
Assistant U.S. Attorney
Burlington, VT
Attorney for Plaintiff

ORDER

**DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT,
GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT,
AND SETTING STATUS CONFERENCE TO ADDRESS REMAINING ISSUES**

For the reasons set forth in the memorandum of decision of even date, the Court finds that the Defendants had an interest in the subject property when they filed their bankruptcy petition, and that under the principle of *res judicata*, the United States, acting through the Rural Housing Service ("RHS") herein, is estopped from challenging the Defendants' interest in the Property.

THEREFORE, IT IS HEREBY ORDERED that the Defendants' motion for summary judgment on Count II of the complaint is granted and the Plaintiff's motion for summary judgment on Count II of the complaint is denied.

IT IS FURTHER ORDERED that the Parties shall appear at a status conference at **11:00 a.m. on November 14, 2006, in Burlington**, to set a schedule for addressing the open issues in the chapter 13 case, this adversary proceeding (#06-1021), and the related adversary proceeding (#05-1038).

IT IS FURTHER ORDERED that, to the extent not disposed of in the memorandum of decision issued today, the Parties shall confer in advance of the status conference and be prepared to make a joint proposal with regard to the following items at the status conference:

- (a) a schedule for adjudicating Count I of the complaint in AP # 06-1021, regarding RHS's request that the confirmation order be revoked based upon the Bartletts' allegedly fraudulent conduct in this case;
- (b) a schedule for adjudicating the issues presented in the complaint in AP #05-1038, namely (i) the Bartletts' request for a determination of the validity and extent of the RHS lien, and (ii) the Bartletts' objection to the RHS proof of claim; and
- (c) a schedule for reaching a determination on RHS's motion for relief from stay (doc. # 34 in chapter 13 case)¹.

SO ORDERED.

November 1, 2006
Rutland, Vermont



Colleen A. Brown
United States Bankruptcy Judge

¹ On February 15, 2006, RHS filed a *Motion to Determine the Scope of the Automatic Stay Or, if Necessary, Motion for Relief From Stay* (the "Motion"; doc # 34 in the chapter 13 case). On February 17, 2006, the Court entered an order (doc. # 35 in the chapter 13 case) (1) denying that portion of the Motion that sought a determination as to the scope of the stay, since that issue was to be resolved in AP # 06-1021; and (2) deferring a determination on the remaining relief sought in the Motion until after a determination of Count II of the complaint in that adversary proceeding. Since Count II has now been adjudicated, if RHS wishes to pursue stay relief, under §362(d), it is time to proceed with that aspect of the Motion.