

NOT FOR PUBLICATION

**FILED**

UNITED STATES COURT OF APPEALS

SEP 10 2004

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

In re: RENE UMALI, Debtor,

No. 02-15010

Debtor,

D.C. No. CV-01-00556-RCB

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SUPPLEMENTAL  
MEMORANDUM\*

RENE UMALI,

Appellant,

v.

CHANDULAL DHANANI, Movant;  
HEMLATABIN DHANANI, Movant,

Appellees.

RENE UMALI,

No. 02-16379

Appellant,

D.C. No. CV-01-01302-RCB

v.

CHANDULAL DHANANI, Movant;

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

HEMLATABIN DHANANI, Movant,

Appellees,

and,

RENE UMALI, Debtor,

Debtor.

Appeal from the United States District Court  
for the District of Arizona  
Robert C. Broomfield, District Judge, Presiding

Argued and Submitted April 8, 2003  
San Francisco, California

Before: FERGUSON, McKEOWN, and RAWLINSON, Circuit Judges.

This case requires us to decide the outcome of two consolidated appeals. The first appeal filed by bankruptcy debtor Rene Umali, No. 02-15010, seeks reversal of the district court's ruling that no automatic stay ever existed in the Arizona bankruptcy case, because Umali filed his petition in violation of the 180-day filing bar imposed by the California bankruptcy court. In the second appeal, No. 02-16379, Umali challenges the district court's affirmance of the bankruptcy court order retroactively annulling the automatic stay in the Arizona bankruptcy action.

In deciding to retroactively annul the automatic stay, the bankruptcy court weighed the following six facts: (1) the tax liens owned by the creditors; (2) the existence of \$1.2 million in unpaid proper taxes, and the corresponding lessened value of the property; (3) Umali's lack of equity in the property; (4) the numerous bankruptcy petitions filed by Umali; (5) the property's irrelevance to effective reorganization of the bankruptcy estate; and (6) the uninsured status of the property. On balance, we cannot say that the bankruptcy court abused its discretion when it weighed the facts and decided that retroactive annulment of the automatic stay was in order. *See In Re Nat'l Env'tl. Waste Corp. v. City of Riverside (In re Nat'l Env'tl. Waste Corp.)*, 129 F.3d 1052, 1055 (9th Cir. 1997).

Our conclusion that the bankruptcy court acted within its discretion in retroactively annulling the automatic stay renders moot Umali's challenge to the district court's ruling that the automatic stay never existed. Accordingly, we affirm as to Appeal No. 02-16379 and dismiss as to Appeal No. 02-15010.

**AFFIRMED IN PART, DISMISSED IN PART.**