

# Court of Appeals of the State of Georgia

ATLANTA, SEPTEMBER 09, 1998

*The Court of Appeals hereby passes the following order:*

A98A2197. GIBSON et al. v. DECATUR FEDERAL SAVINGS AND LOAN ASSOCIATION.

Appellants filed a motion requesting that this appeal be remanded due to a stay entered in favor of appellant John W. Gibson pursuant to 11 U.S.C. § 362 and in favor of appellant Paula T. Gibson pursuant to 11 U.S.C. § 1301, which acts as a co-debtor stay, by reason of the filing by John W. Gibson of a petition for relief under Chapter 13 of the Federal Bankruptcy Act.

"The purpose of the automatic stay provided by Rule 401, Rules of Bank Proc., and 11 U.S.C. § 362 is to give the insolvent debtor an opportunity to take stock and formulate plans for repayment and reorganization with protection from a chaotic and uncontrolled scramble for the debtor's assets in a variety of uncoordinated proceedings in different courts. In re Frigitemp Corp., 8 B.R. 284, 288 (S.D.N.Y. 1981). However, there is no legal impediment to bar an action brought by the debtor from proceeding in state court. In re Ideal Roofing & Sheet Metal Works, Inc., 9 B.R. 2 (S.D. Fla. 1980). Since this appeal was brought by the appellant debtor, this court is not barred from proceeding to a final resolution of this matter." (Punctuation omitted.) Accredited Assoc. V. Shottenfeld,

162 Ga. App. 575, 578 (2) (292 SE2d 417) (1982); see also McDuffie v. Hoobler, 203 Ga. App. 325 (416 SE2d 853) (1992).

Further, the clerk of this Court has contacted the trustee in bankruptcy who has indicated he has no objection to this Court proceeding.

Therefore, appellants' motion is denied.

Appellants shall have 15 days from the date of this order to file their enumeration of errors and brief. Appellee shall have 20 days after the filing of appellants' brief to file appellee's brief in accordance with Rule 26 (b).

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*      SEP -9 1998

*I certify that the above is a true extract from  
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court  
hereto affixed the day and year last above written.*

*Clerk.*

*Will. L. Mart, III*