

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman
Bankruptcy Judge
Sacramento, California

April 15, 2014 at 9:31 A.M.

1. [10-50519](#)-B-13 KAREN GONZALES
TJS-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR RELIEF FROM CO-DEBTOR STAY
3-14-14 [[56](#)]

PENNYMAC HOLDINGS, LLC VS.

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The movant is granted relief from the co-debtor stay of 11 U.S.C. § 1301 as to co-debtor Christopher Gonzales in order to permit the movant to foreclose on the real property located at 8241 Coast Oak Way, Citrus Heights, California (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. The movant's request for a waiver of the requirements of Fed. R. Bankr. P. 3002.1 is dismissed. Except as so ordered, the motion is denied.

The movant alleges without dispute that the loan obligation on which the movant's secured claim is based is in default in the amount of approximately \$54,000.00, representing 21 missed post-petition payments. Relief from the co-debtor stay is appropriate, as continuation of the stay would irreparably harm the movant's interest in the Property. 11 U.S.C. § 103(c)(3). Relief from the automatic stay as to debtor Karen Gonzales is not necessary, as the chapter 13 plan in this case, confirmed by order entered July 12, 2011, already provides for relief from the automatic stay with respect to the movant's claim through class 4 of the plan.

The movant's request for a waiver of the requirements of Fed. R. Bankr. P. 3002.1 is dismissed because it is moot. Fed. R. Bankr. P. 3002.1 applies only in chapter 13 cases to claims that are "(1) secured by a security interest in the debtor's principal residence, and (2) provided for under § 1322(b)(5) of the Code in the debtor's plan." Fed. R. Bankr. P. 3002.1(a). In this case, the debtor's confirmed plan does not provide for treatment of the movant's secured claim under § 1322(b)(5), as the confirmed plan treatment for the movant's claim does not provide for the curing of the default; class 4 treatment of secured claims under the confirmed plan is specifically reserved for claims that are not in default and are not modified by the plan.

The court will issue a minute order.