

11 USC §1322(b) (3)
11 USC §451
ORS 312.120(2)
Comity

In re Coultas

Case No. 392-34206-H13 HLH

10-13-92

Before the chapter 13 petition was filed, Multnomah County foreclosed on the debtor's real property for failure to pay the property taxes when due. The debtor's plan treated Multnomah County as the holder of a secured claim and proposed to cure the default in the payment of the property taxes over the life of the plan.

The county objected to confirmation on the ground it was not a creditor of the estate and the debtor could only redeem the property by payment in full of the amount due within 2 years of the foreclosure in accordance with ORS 312.120(2).

The court overruled the objection and confirmed the plan on the ground that §1322(b)93) gives a chapter 13 debtor the right to cure "any" default. The only limit on this right is found, as a logical matter, in §541 which describes property of the estate. In this case, the debtor had an interest in the realty at the time she filed the petition by virtue of her statutory right of redemption. That interest became part of the estate. This fact and the fact that §1322(b) (3) allows a cure of any default, gave the debtor the right to cure the default in the payment of the tax debt by paying the taxes over the life of the plan notwithstanding the state law requirements for redemption.

P92-28 (2)

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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In Re)
) Case No. 392-34206-H13
GREGORY WILLIAM COULTAS)
JACQUELINE PHYLLIS COULTAS) OPINION
)
Debtors.)

This matter came before the court upon an objection to confirmation of the chapter 13 debtors' proposed plan. The objection was filed on behalf of Multnomah County. The County is represented by Sandra Duffy and the debtors by Kent V. Snyder, both of Portland, Oregon.

The debtors were the owners of certain real property located in Multnomah County. The debtors contend the property is worth \$39,500. This contention has not been disputed. The debtors failed to pay property taxes totaling about \$7,900 on the property and the County foreclosed on the property before this case was filed. The debtors' redemption period expires on

1 September 30, 1993. See ORS 312.120(2).

2 The debtors' plan proposes to pay the County \$250 monthly
3 after administrative expenses are paid plus interest at 16%.
4 The County objects to confirmation on the ground it is not a
5 creditor and that the plan fails to provide for payment in full
6 of the amount due within the two year redemption period.

7 The facts in this case are nearly identical to those that
8 resulted in this court's published opinion in In Re Desrosiers,
9 ____ B.R. ____ (Bankr. Or. 1992); Case No. 392-33417-H13, Slip
10 Op. dated September 1, 1992, and the supplemental opinion in In
11 Re Ivory, ____ B.R. ____ (Bankr. Or. 1992); Case No. 391-32714-
12 H13, Slip Op. dated October 8, 1992. For all the reasons
13 stated in Desrosiers and Ivory, which reasons are incorporated
14 herein by reference, this court overrules the County's
15 objections and will enter an order confirming the debtors'
16 plan.

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18 DATED this _____ day of October, 1992.

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22 _____
23 Henry L. Hess, Jr.
24 Bankruptcy Judge
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30 cc: Sandra Duffy
31 Kent V. Snyder
32 Robert W. Myers, Trustee