



Opinion 557

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Opinion Title: 03/13/2012 UNPUBLISHED Richins v. Bank of America Home Loans, Case No. 10-02754, Judge Thurman .

Body: The Court denied a Debtors' motion for judgment against a creditor who held a wholly unsecured mortgage against their primary residence in a chapter 7 case under 11 U.S.C. § 506(a) and (d). In its examination of *Dewsnup v. Timm*, 502 U.S. 410 (1992), which disallowed the strip down of a partially unsecured junior lien on a chapter 7 debtor's real property, the Court discerned no reason that the analysis underlying the *Dewsnup* decision should differ depending on whether the chapter 7 debtor is attempting to strip a partially secured or wholly unsecured lien. Moreover, the Court found *Nobelman v. American Savings Bank*, 508 U.S. 324 (1993) inapplicable, as it was a chapter 13 case dealing with § 1322 that is inapplicable to a chapter 7 case. The Court concluded that while strip off of a wholly unsecured junior lien in a chapter 13 case is generally permissible, the differing purposes and intent of chapter 7 make it distinguishable from a chapter 13 case such that strip off of wholly unsecured junior lien is inappropriate in chapter 7 cases.

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Judge: [Judge William T. Thurman](#) [2]

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