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SUSAN M SPRAWL, CLERK
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

NOT FOR PUBLICATION

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UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

In re:)	BAP No. CC-10-1277-DMkKi
)	
ASATOOR BAGHDASARIAN,)	Bk. No. LA 10-29036
)	
Debtor.)	
_____)	
)	
ASATOOR BAGHDASARIAN,)	
)	
Appellant,)	
)	
v.)	MEMORANDUM¹
)	
SRT PARTNERS, LLC,)	
)	
Appellee.)	
_____)	

Argued and Submitted on June 17, 2011
at Pasadena, California

Filed - July 8, 2011

Appeal from the United States Bankruptcy Court
for the Central District of California

Honorable Barry Russell, Bankruptcy Judge, Presiding

Appearances: _____
Appellant Asatour Baghdasarian argued pro se; Eli
A. Gordon, Esq., argued for Appellee, SRT Partners,
LLC.

Before: DUNN, MARKELL, and KIRSCHER, Bankruptcy Judges.

¹ This disposition is not appropriate for publication.
Although it may be cited for whatever persuasive value it may have
(see Fed. R. App. P. 32.1), it has no precedential value. See 9th
Cir. BAP Rule 8013-1.

1 The appellant Asatour Baghdasarian ("Mr. Baghdasarian")
2 appeals the bankruptcy court's orders 1) granting relief from stay
3 to appellee SRT Partners, LLC ("SRT") to proceed with an unlawful
4 detainer eviction action against Mr. Baghdasarian concerning his
5 residence, and 2) denying Mr. Baghdasarian's motion to reconsider
6 the bankruptcy court's order granting relief from stay. We DISMISS
7 this appeal as moot. In the alternative, we AFFIRM.

8
9 I. FACTS

10 The ultimate grievance driving this appeal is
11 Mr. Baghdasarian's claim that his former lender, Select Portfolio
12 Servicing, Inc. ("Select Portfolio"), wrongfully and fraudulently
13 foreclosed him out of his residential property in Glendale,
14 California ("Residence"), while he and Select Portfolio were
15 negotiating a loan modification. Apparently Mr. Baghdasarian and
16 Select Portfolio were in discussions about a potential loan
17 modification for a substantial period of time, but the crystallizing
18 event for our purposes is the fact that a foreclosure sale of the
19 Residence took place in the morning of January 5, 2010.² Central

20 _____
21 ² In his excerpts of record, Mr. Baghdasarian submitted a copy
22 of the docket for his second bankruptcy case, case no. 2:10-29036-
23 BR, but otherwise invited the Panel to review the documents
24 referenced in the docket without providing any copies of relevant
25 documents. SRT did not submit any excerpts of record. We have
26 exercised our discretion to review independently relevant imaged
documents from the bankruptcy court's electronic docket in case no.
2:10-29036-BR. See O'Rourke v. Seaboard Sur. Co. (In re E.R.
Fegert, Inc.), 887 F.2d 955, 957-58 (9th Cir. 1989); Atwood v. Chase

(continued...)

1 District of California Bankruptcy Case No. 2:10-29036-BR Docket No.
2 24, Exhibit A. (Hereafter, filings in bankruptcy case no. 2:10-
3 29036-BR will be referenced by their docket numbers only.) "On
4 January 5th of 2010, a real estate agent who had just heard of the
5 auction knocked on our door and told me that my house had been sold
6 that morning, and he asked me if I am going to buy the property back
7 or leave, and I was shocked." Id.

8 Mr. Baghdasarian filed a chapter 13³ bankruptcy case, case
9 no. 2:10-10330-EC ("First Bankruptcy Case"), in the afternoon at
10 3:38 p.m. that same day. Docket No. 21.

11 A Trustee's Deed Upon Sale ("Trustee's Deed") transferring
12 title to the Residence to SRT, the buyer at the foreclosure sale,
13 was delivered and recorded on or about January 29, 2010. Docket
14 No. 11, Exhibit A. It is not clear from the record when SRT became
15 aware of the First Bankruptcy Case. SRT served a 3-Day Notice to
16 Quit the Residence on Mr. Baghdasarian on or about February 3, 2010.
17 Docket No. 11, Exhibit B. Thereafter, SRT filed an Unlawful
18 Detainer-Eviction complaint ("Eviction Complaint" or "Eviction
19 Action") against Mr. Baghdasarian on or about February 10, 2010, in
20 the California Superior Court ("Superior Court"). Docket No. 11,
21

22 ²(...continued)
23 Manhattan Mrtg. Co. (In re Atwood), 293 B.R. 227, 233 n.9 (9th Cir.
24 BAP 2003).

25 ³ Unless otherwise specified, all chapter and section
26 references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532, and
all "Rule" references are to the Federal Rules of Bankruptcy
Procedure, Rules 1001-9037.

1 Ex. C. SRT filed a motion for relief from stay in the First
2 Bankruptcy Case on March 29, 2010, but it never was heard, as the
3 First Bankruptcy Case was dismissed on April 14, 2010, based on
4 Mr. Baghdasarian's failure to provide evidence that he had fulfilled
5 the Bankruptcy Code's credit counseling requirement. See First
6 Bankruptcy Case Docket Nos. 11 and 12, and § 109(h)(1).

7 Following the dismissal of the First Bankruptcy Case, SRT
8 prosecuted the Eviction Complaint to trial ("Eviction Trial") on
9 May 13, 2010, starting at 8:30 a.m. Docket No. 21, Exhibits O and
10 P. Mr. Baghdasarian did not appear at the Eviction Trial, and SRT
11 obtained a judgment ("Judgment") on the Eviction Complaint that was
12 entered on May 13, 2010. See Docket No. 11. In the meantime,
13 Mr. Baghdasarian had filed a new chapter 7 bankruptcy case ("Second
14 Bankruptcy Case") on May 13, 2010, at or around 9:17 a.m. Id. SRT
15 was made aware of the Second Bankruptcy Case the following day. Id.

16 On May 20, 2010, SRT filed a motion ("Motion") in the
17 alternative, for relief from the stay under §§ 362(d)(1) and (2), or
18 to annul the stay to validate the Judgment. Docket No. 11. A
19 hearing ("Hearing") on the Motion was scheduled for June 2, 2010, at
20 2:00 p.m. See Docket No. 13. Mr. Baghdasarian did not file an
21 opposition to the Motion, but apparently, he appeared at the
22 Hearing. See Docket No. 17. Neither party has provided a
23 transcript of the Hearing in excerpts of record, and there is no
24 transcript of the Hearing on the bankruptcy court's docket.
25 Consequently, we cannot determine what was discussed at the Hearing,
26 but we can conclude from the parties' subsequent filings that the

1 bankruptcy court stated its intention to grant the Motion at the
2 Hearing.

3 On June 3, 2010, Mr. Baghdasarian filed a motion to convert
4 the Second Bankruptcy Case from chapter 7 to chapter 13, and on
5 June 10, 2010, he filed a motion to reconsider ("Motion to
6 Reconsider") the bankruptcy court's ruling at the Hearing. See
7 Docket Nos. 14 and 17. Mr. Baghdasarian subsequently filed exhibits
8 in support of his Motion to Reconsider. See Docket No. 21. SRT
9 filed an opposition to the Motion to Reconsider, noting that
10 Mr. Baghdasarian based his motion on his argument that he was
11 attempting to modify his loan when the foreclosure sale of the
12 Residence took place, and such matter was not properly raised as an
13 objection to a motion for relief from stay. See Docket No. 20.

14 On July 7, 2010, the bankruptcy court issued two orders:
15 1) an order granting the Motion pursuant to §§ 362(d)(1) and (2),
16 but not annulling the stay to validate the Judgment; and 2) an order
17 denying the Motion to Reconsider, as Mr. Baghdasarian had shown "no
18 good cause" for the relief requested. See Docket Nos. 22 and 23.
19 Mr. Baghdasarian timely appealed both orders. See Docket No. 30.
20 At some point thereafter, the Judgment apparently was vacated by the
21 Superior Court.

22 On July 15, 2010, the bankruptcy court granted
23 Mr. Baghdasarian's motion to convert the Second Bankruptcy Case to
24 chapter 13, and Mr. Baghdasarian filed a chapter 13 plan requiring
25 him to make plan payments in the amount of \$100 per month. See
26 Docket Nos. 27 and 35.

1 On August 26, 2010, Mr. Baghdasarian filed a motion ("Stay
2 Violation Motion") for an award of \$90,000 damages against SRT for
3 violating the stay under § 362. See Docket No. 39. SRT filed an
4 opposition to the Stay Violation Motion. See Docket No. 44.

5 On November 19, 2010, the chapter 13 trustee filed a motion
6 to dismiss ("Motion to Dismiss") Mr. Baghdasarian's chapter 13 case
7 because Mr. Baghdasarian had failed to make any plan payments. See
8 Docket No. 47. Mr. Baghdasarian did not make up the missed plan
9 payments or file any opposition to the Motion to Dismiss. See
10 Docket No. 49.

11 On December 22, 2010, Mr. Baghdasarian filed a motion to
12 reconvert ("Reconversion Motion") his Second Bankruptcy Case to
13 chapter 7. However, he did not schedule his Reconversion Motion for
14 hearing and did not serve it on his creditors. See Docket No. 50.

15 On January 10, 2011, the bankruptcy court entered an order
16 ("Dismissal Order") dismissing the Second Bankruptcy Case on the
17 trustee's Motion to Dismiss. See Docket No. 52. On January 24,
18 2011, Mr. Baghdasarian filed a document entitled "Appeal from
19 Debtor's Motion to Convert Case, [Denied] and Dismissal Chapter 13
20 on Jan 11," which the bankruptcy court interpreted as a motion to
21 reconsider the Dismissal Order. See Docket No. 56. On February 10,
22 2011, the bankruptcy court entered an order ("Reconsideration
23 Order"): 1) denying the Reconversion Motion; and 2) denying
24 Mr. Baghdasarian's further motion to reconsider the Dismissal Order,
25 based primarily on Mr. Baghdasarian's failure to schedule the
26 Reconversion Motion for hearing on notice to creditors, but also

1 noting in the order that Mr. Baghdasarian admitted that he could not
2 afford his chapter 13 plan payments. See Docket No. 57.
3 Mr. Baghdasarian did not appeal the Dismissal Order or the
4 Reconsideration Order.

5 On February 28, 2011, the bankruptcy court entered an order
6 denying the Stay Violation Motion, noting that a hearing on the Stay
7 Violation Motion had been scheduled for September 21, 2010, at which
8 Mr. Baghdasarian did not appear. See Docket No. 59.
9 Mr. Baghdasarian did not appeal that order. There is no further
10 activity on the Second Bankruptcy Case docket after March 2, 2011.

11 In his pleadings to this Panel, Mr. Baghdasarian indicates
12 that a new judgment in favor of SRT was entered by the Superior
13 Court in the Eviction Action on August 19, 2010, a writ of
14 possession subsequently was issued, and he was evicted from the
15 Residence on or about November 17, 2010. See Docket No. 56.

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II. JURISDICTION

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The bankruptcy court had subject matter jurisdiction pursuant
to 28 U.S.C. §§ 1334 and 157(b)(2)(G) over these core proceedings.
We have jurisdiction under 28 U.S.C. § 158.

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III. ISSUES

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1. Whether events subsequent to the entry of the orders on
appeal have rendered this appeal moot.

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2. Whether the bankruptcy court abused its discretion in
granting the Motion and denying the Motion to Reconsider.

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IV. STANDARDS FOR REVIEW

We review a bankruptcy court’s decision to grant a motion for relief from stay for an abuse of discretion. Gruntz v. County of Los Angeles (In re Gruntz), 202 F.3d 1074, 1084 n.9 (9th Cir. 2000) (en banc). We likewise review a bankruptcy court’s denial of a motion for reconsideration for an abuse of discretion. Ta Chong Bank Ltd. v. Hitachi High Tech. Am., Inc., 610 F.3d 1063, 1066 (9th Cir. 2010); Zimmerman v. City of Oakland, 255 F.3d 734, 737 (9th Cir. 2001).

We apply a two-part test to determine whether the bankruptcy court abused its discretion. United States v. Hinkson, 585 F.3d 1247, 1261-62 (9th Cir. 2009) (en banc). First, we consider de novo whether the bankruptcy court applied the correct legal standard to the relief requested. Id. Then, we review the bankruptcy court’s fact findings for clear error. Id. at 1262 & n.20. We must affirm the bankruptcy court’s fact findings unless we conclude that they are “(1) ‘illogical,’ (2) ‘implausible,’ or (3) without ‘support in inferences that may be drawn from the facts in the record.’” Id.

We may affirm on any ground supported by the record. Shanks v. Dressel, 540 F.3d 1082, 1086 (9th Cir. 2008).

V. DISCUSSION

A. Mootness

We do not treat mootness questions lightly, but we are mindful that if we cannot provide any effective relief in an appeal, the appeal is moot, and it must be dismissed. Church of Scientology

1 of Cal. v. United States, 506 U.S. 9, 12 (1992).

2 We consider two lines of authority in analyzing mootness
3 issues. The doctrine of constitutional mootness is derived from
4 Article III of the United States Constitution, which provides that
5 the exercise of judicial power depends on the existence of a live
6 case or controversy. DeFunis v. Odegaard, 416 U.S. 312, 316 (1974).
7 The theory of constitutional mootness essentially recognizes
8 Article III's prohibition against federal courts issuing advisory
9 opinions, where a disposition can have no meaningful application.
10 North Carolina v. Rice, 404 U.S. 244, 246 (1971). Constitutional
11 mootness applies generally when events occur while an appeal is
12 pending that make it impossible for the appellate tribunal to grant
13 any effective relief to the parties before it. Church of
14 Scientology of Cal. v. United States, 506 U.S. at 12.

15 In what can be characterized as a variation on the general
16 constitutional mootness rule, equitable mootness "applies when
17 appellants 'have failed and neglected diligently to pursue their
18 available remedies to obtain a stay' and circumstances have changed
19 so as to 'render it inequitable to consider the merits of the
20 appeal.'" Darby v. Zimmerman (In re Popp), 323 B.R. 260, 271 (9th
21 Cir. BAP 2005) (citation omitted).

22 Whether analyzed on constitutional or equitable mootness
23 grounds, we conclude that this appeal must be dismissed as moot
24 because there is no effective remedy that we can provide under the
25 circumstances to Mr. Baghdasarian for the following reasons.

26 When the bankruptcy court entered its orders granting the

1 Motion and denying the Motion to Reconsider, the following
2 conditions applied: Although SRT was the record title holder to the
3 Residence property, the Judgment that it had obtained in the
4 Eviction Action was void as having been entered while the automatic
5 stay in Mr. Baghdasarian's Second Bankruptcy Case was in effect, and
6 it subsequently was vacated. Mr. Baghdasarian filed a timely notice
7 of appeal of the bankruptcy court's orders, but he did not apply for
8 or obtain a stay of proceedings pending appeal either from the
9 bankruptcy court or from this Panel.

10 Thereafter, based on information provided in
11 Mr. Baghdasarian's submissions to this Panel, the Superior Court
12 entered a new judgment in the Eviction Action in favor of SRT on
13 August 19, 2010. A writ of possession subsequently was issued, and
14 Mr. Baghdasarian was evicted from the Residence on November 17,
15 2010.

16 In responding to this Panel's subsequent order requesting an
17 explanation as to why this appeal was not moot, Mr. Baghdasarian
18 argued that in the event the orders on appeal were reversed, he
19 might be able to pursue a claim for damages against SRT for
20 violation of the stay in his Second Bankruptcy Case. However, after
21 this Panel issued a further order declining to dismiss the appeal
22 but preserving consideration of mootness issues for the merits
23 panel, Mr. Baghdasarian's Second Bankruptcy Case was dismissed, and
24 his Stay Violation Motion was denied, without appeal of either
25 disposition. If we were to proceed to reverse the bankruptcy
26 court's orders on the Motion and the Motion to Reconsider, 1)

1 Mr. Baghdasarian already has been dispossessed from the Residence
2 pursuant to a judgment issued by the Superior Court; 2) the
3 bankruptcy court has denied damages to Mr. Baghdasarian against SRT
4 for its alleged violations of the stay; and 3) there is no live case
5 before the bankruptcy court for a remand. In these circumstances,
6 there is no effective relief that we can grant to Mr. Baghdasarian
7 in this appeal, and it must be dismissed as moot.

8 B. Relief from Stay

9 Even if we did not dismiss this appeal as moot, based on the
10 limited record available for our review, we conclude that the
11 bankruptcy court did not abuse its discretion in granting the
12 Motion, in the way it did, or in denying the Motion to Reconsider
13 for the following reasons.

14 Motions for relief from stay are by their nature very limited
15 proceedings. Under the Federal Rules of Bankruptcy Procedure,
16 motions for relief from stay are contested matters, brought by
17 motion rather than through prosecution of a complaint in an
18 adversary proceeding. See Rules 4001(a) and 9014(a). Deciding a
19 motion for relief from stay entails consideration of the specific
20 grounds for granting relief from stay set forth in § 362(d),
21 generally whether "cause" is established; whether the debtor has
22 equity in the subject property; and/or whether the subject property
23 is necessary to an effective reorganization of the debtor's affairs.

24 Given the limited grounds for obtaining a motion for
25 relief from stay, read in conjunction with the
26 expedited schedule for a hearing on the motion, most
courts hold that motion for relief from stay hearings
should not involve an adjudication on the merits of

1 claims, defenses, or counterclaims, but simply
2 determine whether the creditor has a colorable claim
to the property of the estate.

3 Biggs v. Stovin (In re Luz Int'l), 219 B.R. 837, 842 (9th Cir. BAP
4 1998)(emphasis added); see also Johnson v. Righetti (In re Johnson),
5 756 F.2d 738, 740-41 (9th Cir. 1985) ("Hearings on relief from the
6 automatic stay are . . . handled in a summary fashion. [citation
7 omitted] The validity of the claim or contract underlying the claim
8 is not litigated during the hearing."); Grella v. Salem Five Cent
9 Sav. Bank, 42 F.3d 26, 33-34 (1st Cir. 1994):

10 [I]t is analogous to a preliminary injunction hearing,
11 requiring a speedy and necessarily cursory
12 determination of the reasonable likelihood that a
13 creditor has a legitimate claim or lien as to a
14 debtor's property. If a court finds that likelihood
15 to exist, this is not a determination of the validity
of those claims, but merely a grant of permission from
the court allowing that creditor to litigate its
substantive claims elsewhere without violating the
automatic stay.

16 Cornell University Law School's Legal Information Institute defines
17 a "colorable claim" as:

18 A plausible legal claim. In other words, a claim
19 strong enough to have a reasonable chance of being
20 valid if the legal basis is generally correct and the
facts can be proven in court. The claim need not
actually result in a win.

21 [http://topics.law.cornell.edu/wex/colorable claim.](http://topics.law.cornell.edu/wex/colorable_claim)

22 SRT attached to the Motion a copy of the Trustee's Deed,
23 transferring title to the Residence to SRT following the foreclosure
24 sale and showing the Trustee's Deed as having been recorded on
25 January 29, 2010. Mr. Baghdasarian did not file a written
26 opposition to the Motion in advance of the Hearing, and because

1 there is no transcript of the Hearing available to us, we do not
2 know what the parties argued at the Hearing.⁴ However, included in
3 the exhibits filed by Mr. Baghdasarian in support of the Motion to
4 Reconsider was a copy of the document from the Los Angeles County
5 Recorder's Office reflecting that the Trustee's Deed had been
6 recorded on January 29, 2010. Accordingly, there is nothing in the
7 record that indicates that Mr. Baghdasarian contested SRT's position
8 that it purchased the Residence at the foreclosure sale on
9 January 5, 2010, and was the grantee under the Trustee's Deed
10 recorded on January 29, 2010.⁵

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12 ⁴ As a general matter, we have discretion to dismiss an appeal
13 or summarily affirm a bankruptcy court's decisions if the appellant
14 does not provide a sufficient record to allow us to conduct an
15 informed review. See Kyle v. Dye (In re Kyle), 317 B.R. 390, 393
16 (9th Cir. BAP 2004), aff'd, 170 Fed. Appx. 457 (9th Cir. 2006).
17 "The settled rule on transcripts in particular is that failure to
18 provide a sufficient transcript may, but need not, result in
19 dismissal or summary affirmance and that the appellate court has
20 discretion to disregard the defect and decide the appeal on the
21 merits." (citations omitted) Id. We exercise that discretion in
22 this appeal because the record, though limited, is adequate for us
23 to make a reasonably informed decision on the issues presented.

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20 ⁵ Under California law, a foreclosure generally is deemed
21 complete on sale, even if the trustee's deed is not delivered until
22 a later date. So long as the foreclosure sale is conducted
23 "regularly and properly," it is presumed valid, and the execution
24 and delivery of a trustee's deed evidencing the transfer of title is
25 a mere ministerial act. See Millennium Rock Mortgage, Inc. v. T.D.
26 Serv. Co., 179 Cal. App. 4th 804, 809, 102 Cal. Rptr. 3d 544, 548
(2009); Ballengee v. Sadlier, 179 Cal. App. 3d 1, 4, 224 Cal. Rptr.
301, 302 (1986). However, if there is a defect in procedure,
unfairness or fraud leading up to the foreclosure sale, it is
voidable. See, e.g., Millennium Rock Mortgage, Inc., 179 Cal. App.

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(continued...)

1 When state law foreclosure proceedings have been completed
2 prepetition, courts typically find cause to grant relief from stay
3 to allow the purchaser at the foreclosure sale to proceed with state
4 law remedies to obtain possession of the subject property. See,
5 e.g., Bebensee-Wong v. Fed. Nat'l Mort. Ass'n (In re Bebensee-Wong),
6 248 B.R. 820, 821 (9th Cir. BAP 2000); LR Partners, L.L.C. v.
7 Steiner (In re Steiner), 251 B.R. 137, 143 (Bankr. D. Ariz. 2000);
8 Davisson v. Engles (In re Engles), 193 B.R. 23, 25 (Bankr. S.D. Cal.
9 1996).

10 Although we do not have the bankruptcy court's oral findings
11 in support of its decision granting the Motion, the order granting
12 the Motion specified that it was granted under § 362(d)(1), which
13 requires "cause." The order granting the Motion also specified that
14 it was granted under § 362(d)(2), which provides that relief from
15 stay "shall" be granted "with respect to a stay of an act against
16 property . . . if-(A) the debtor does not have any equity in such
17 property; and (B) such property is not necessary to an effective
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20 ⁵(...continued)
21 4th at 809, 102 Cal. Rptr. 3d at 548; Angell v. Superior Ct., 73
22 Cal. App. 4th 691, 700, 86 Cal. Rptr. 2d 657, 662-63 (1999); Moeller
23 v. Lien, 25 Cal. App. 4th 822, 832, 30 Cal. Rptr. 2d 777, 783-84
24 (1994); Little v. CFS Serv. Corp., 188 Cal. App. 3d 1354, 1358-62,
25 233 Cal. Rptr. 923 (1987).

26 Mr. Baghdasarian's first bankruptcy filing before the Trustee's
Deed was delivered and recorded and the bankruptcy court's order on
the Motion preserved Mr. Baghdasarian's right to assert his claims
that the foreclosure sale of his residence was wrongful and
fraudulent in the Eviction Action. However, Mr. Baghdasarian did
not prevail on those claims.

1 reorganization." SRT bore the burden of proof to establish that Mr.
2 Baghdasarian had no equity in the Residence, but Mr. Baghdasarian
3 bore the burden of proof to establish that it was necessary for an
4 effective reorganization of his affairs. § 362(g).

5 With title to the Residence in SRT, no equity for
6 Mr. Baghdasarian was a given unless and until a court in appropriate
7 proceedings restored title to Mr. Baghdasarian. Without an
8 ownership interest in the Residence, also given was the Residence
9 could not be necessary to a reorganization of Mr. Baghdasarian's
10 affairs.

11 What is as important as what the bankruptcy court did in its
12 order on the Motion is what it did not do: It did not grant SRT's
13 Motion in the alternative to annul the stay retroactively to
14 validate the Judgment. The order accordingly required SRT to go
15 back to Superior Court and litigate with Mr. Baghdasarian whether it
16 was appropriate to evict him from the Residence in light of
17 Mr. Baghdasarian's claims that the foreclosure sale underlying SRT's
18 claim to title was wrongful and fraudulent. Accordingly, the
19 bankruptcy court's order on the Motion is entirely consistent with
20 the limited procedure and purposes prescribed for motions for relief
21 from stay under the Bankruptcy Code, and we conclude that the
22 bankruptcy court did not abuse its discretion in granting the Motion
23 as it did, based on our review of the record.

24 With respect to Mr. Baghdasarian's Motion to Reconsider, as
25 noted by SRT in its opposition, the motion was based on
26 Mr. Baghdasarian's argument that the foreclosure sale was wrongful

1 because it was conducted while loan modification negotiations were
2 in process. A bankruptcy court has broad discretion in deciding
3 whether to reconsider its own orders, and a motion for
4 reconsideration should not be granted in the absence of highly
5 unusual circumstances. Orange St. Partners v. Arnold, 179 F.3d 656,
6 665 (9th Cir. 1999). Generally, granting a motion for
7 reconsideration is only proper if the bankruptcy court 1) is
8 presented with newly discovered evidence that was not available at
9 the time of the original hearing or 2) committed clear error or made
10 a decision that was manifestly unjust, or 3) there is an intervening
11 change in controlling law. Zimmerman v. City of Oakland, 255 F.3d
12 at 740.

13 While we do not know what Mr. Baghdasarian argued at the
14 Hearing, there is no new evidence in the Motion to Reconsider and
15 the supporting exhibits that was not available to Mr. Baghdasarian
16 at the time of the Hearing, and the bankruptcy court's decision on
17 the Motion, as noted above, was consistent with applicable law and
18 the facts before it, as we can perceive them from the record. We do
19 not see any abuse of discretion in the bankruptcy court's decision
20 to deny the Motion to Reconsider.

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VI. CONCLUSION

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For the reasons set forth above, we DISMISS this appeal as
MOOT, but if the appeal were not moot, we would AFFIRM the
bankruptcy court's decisions to grant the Motion and to deny the
Motion to Reconsider.