

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 14 2010

PLAN B DEVELOPMENT, LLC,

Appellant,

vs.

AUBURN ACE HOLDINGS, LLC,

Appellee.

No. 09-35953

D.C. No. 2:08-cv-01242-RAJ

MEMORANDUM *

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

Appeal from the United States District Court
for the Western District of Washington
Richard A. Jones, District Judge, Presiding

Submitted June 11, 2010**
Seattle, Washington

Before: CALLAHAN and IKUTA, Circuit Judges, and BENITEZ,*** District
Judge.

The parties do not dispute that the debtor's primary asset was sold during the
bankruptcy process. Nor do they dispute that Plan B failed to obtain a stay of the

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without
oral argument. Fed. R. App. P. 34(a)(2).

*** The Honorable Roger T. Benitez, United States District Judge for the
Southern District of California, sitting by designation.

proceedings while this appeal was pending. Therefore, we conclude that the transfer of that asset precludes us from providing meaningful relief. *Trone v. Robert Farms, Inc. (In re Roberts Farm, Inc.)*, 652 F.2d 793, 797 (9th Cir. 1981).

Plan B's reliance on *Popp v. Zimmerman (In re Popp)*, 323 B.R. 260 (B.A.P. 9th Cir. 2005) is misplaced, as in that case the Bankruptcy Appellate Panel could still provide relief based on a lien that remained on the property in that suit. *Id.* at 271-72. No such lien exists in this case.

The appeal is **DISMISSED** as moot.