

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re:

DANIEL RAYMOND and MARIE
ESTHER BLACK,

Debtors.

No. 10-05902-PCW7

DANIEL RAYMOND and MARIE
ESTHER BLACK,

Plaintiffs,

Adv. No. 11-80008-PCW

vs.

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM DECISION RE:
UNITED STATES' MOTION TO DISMISS
AMENDED COMPLAINT

THIS MATTER comes before the court on the United States of America's Motion to Dismiss Amended Complaint (Docket No. 7). The United States of America ("United States") on behalf of the Internal Revenue Service moves to dismiss the adversary proceeding because it is barred by the doctrine of *res judicata* and fails to state a claim on which relief may be granted.

The court has considered the motion, exhibits, objection, responses, reply, relevant affidavits and the oral argument of the parties.

On November 2, 2007, the United States filed a complaint in the United States District Court for the Eastern District of Washington against the Debtors/Plaintiffs and entities purported to hold title to properties. The action sought to reduce the Debtors'/Plaintiffs' tax liabilities to judgment and to

1 foreclose the federal tax liens against their property held nominally by those entities. Civil No. CV-07-
2 355-RHW. On July 16, 2010, the District Court granted the United States' Motion for Summary
3 Judgment, finding that Hope Springs was the nominee and alter ego of the Debtors/Plaintiffs and that
4 Hope Springs held title to the property as nominee or alter ego of the Debtors/Plaintiffs. The District
5 Court also found the property was subject to federal tax debts and ordered that the federal tax liens be
6 foreclosed. The District Court held that despite the discharge obtained in Debtors'/Plaintiffs' 2001
7 bankruptcy petition (Case No. 01-06040-JAR7) filed in the United States Bankruptcy Court for the
8 Eastern District of Washington, the federal tax liabilities were non-dischargeable under 11 U.S.C. §
9 523(a)(1).

10 In the current Motion to Dismiss this adversary, the United States argues that of the eight causes
11 of action alleged in the Amended Complaint, claims one through seven were raised and resolved in the
12 District Court case and are barred under the doctrine of *res judicata*. It further argues that claim eight
13 fails as a matter of law and should be dismissed for failure to state a claim upon which relief could be
14 granted.

15 Debtors/Plaintiffs argue that the claims of tax indebtedness were previously adjudicated and
16 previously discharged by judgment and decree by the Bankruptcy Court in 2001. Debtors/Plaintiffs
17 contend that they are entitled to the application of *res judicata* as to the order granting discharge, and
18 that the District Court judgment is void as a matter of law.

19 The facts surrounding this dispute span several years and several bankruptcy and federal district
20 court cases. As the Debtors/Plaintiffs have not objected to the facts recited in the background, but
21 rather objected to the legal effect of the various court decrees and orders, this court adopts the factual
22 background as set forth in the United States' Motion to Dismiss (Docket No. 7) and takes judicial notice
23 of the orders attached thereto as exhibits.

24 The doctrine of claim preclusion holds that a final judgment on the merits of an action precludes
25 the parties from relitigating issues that were raised, or could have been raised, in that action. Federated
26 Depart. Stores, Inc. v Moitie, 452 U.S. 394, 398, 101 S.Ct. 2424, 2428 (1981); In re Baker, 74 F.3d 906,
27 910 (9th Cir. 1996). For claim preclusion to apply, there must have been a final judgment on the merits,
28 the prior action must have involved the same parties or their privies, and the prior action must have

1 involved the same claim. Nevada v. United States, 463 U.S. 110, 130, 103 S.Ct. 2906, 2918 (1983),
2 citing Cromwell v. Sac County, 94 U.S. 351, 352 (1876).

3 In this case, the District Court case was brought by the United States against Debtors/Plaintiffs,
4 and Debtors/Plaintiffs appeared and defended their interests. Thus, the requirement of identical parties
5 has been met. A final judgment on the merits was entered by the District Court as a separate document.
6 For *res judicata* to apply, the prior action must involve the same claims.

7 1. Claim One - Tax Debts Were Discharged on November 15, 2001.

8 Debtors/Plaintiffs allege that the taxes litigated in the District Court case were discharged
9 by their 2001 bankruptcy. The District Court expressly ruled on this issue in its Order Granting
10 Summary Judgment. (Exhibit 1 at pp. 12-13).

11 2. Claim Two - Tax Liens Are Void As A Matter Of Law.

12 Debtors/Plaintiffs claim that the assessments against them are invalid. The District Court
13 found that the assessments were “based on well-founded determinations.” (Exhibit 1 at pp. 11-12).

14 3. Claim Three - Blacks Do Not Appear In The Chain Of Title To The Real Property.

15 Debtors/Plaintiffs claim that they cannot be the owners of the subject property at issue
16 in the District Court case because they do not appear in the chain of title on record with the county. The
17 District Court specifically held that Debtors/Plaintiffs were the true beneficial owners. (Exhibit 1 at p.
18 17).

19 4. Claim Four - The United States Violated Rules of Discovery.

20 Debtors/Plaintiffs object to the District Court’s denial of their Motion to Compel. The
21 District Court ruled on this issue in its Order Denying the Motion to Compel. (Exhibit 2).

22 5. Claim Five - The United States Failed to Seek Proper Authority To Commence Its
23 Action.

24 Debtors/Plaintiffs claim that the United States failed to secure required authorization
25 before initiating the District Court case. The District Court specifically held that the United States had
26 provided the required authorization. (Exhibit 3 at pp. 2-3).

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6. Claim Six - District Court Unlawfully Granted Summary Judgment With Five Pending Issues Of Material Fact.

Debtors/Plaintiffs claim that the District Court granted summary judgment despite the existence of several genuine issues of material fact. The District Court specifically addressed and ruled upon the issue of the alleged existence of genuine issues of material fact. (Exhibit 1 at pp. 17and 20).


7. Claim Seven - The United States Engaged In Abuse Of Process

Debtors/Plaintiffs claim abuse of process due to lack of authorization. The District Court ruled upon that issue. (Exhibit 1).

Claims one through seven in this adversary proceeding involve the same parties and the same claims that were resolved by the final judgment entered in the District Court case. Therefore, claims one through seven are barred by the doctrine of claim preclusion.

The only claim which is not barred by *res judicata* is the eighth cause of action; the claim that the tax lien merged with the judgment lien. When the United States obtains a judgment, the federal tax lien does not merge into the judgment or the judgment lien. United States v. Overman, 424 F.2d 1142, 1147 (9th Cir. 1970). The judgment merely confirms the validity of the tax lien. Thus, claim eight fails as a matter of law and should be dismissed.

In conclusion, based upon the foregoing, this court will **GRANT** the United States' Motion to Dismiss the Debtors'/Plaintiffs' Amended Complaint filed on January 25, 2011, and **DISMISS** the adversary proceeding.


Patricia C. Williams
Bankruptcy Judge

04/27/2011 11:29:51