[DO NOT PUBLISH]

## IN THE UNITED STATES COURT OF APPEALS

## FOR THE ELEVENTH CIRCUIT

No. 14-10062 Non-Argument Calendar

D.C. Docket No. 1:13-cv-02519-WSD, 13-bkc-60610-JRS

DAYO BELLO,

Debtor,

\_\_\_\_\_

BANK OF AMERICA, N.A.,

Plaintiff-Appellant,

versus

DAYO BELLO,

Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Georgia

(April 17, 2014)

Before PRYOR, MARTIN, and EDMONDSON, Circuit Judges.

## PER CURIAM:

Bank of America, N.A. appeals the district court's affirmance of the bankruptcy court's order voiding a wholly unsecured second priority lien on residential property owned by a Chapter 7 debtor. The issue on appeal is whether a Chapter 7 debtor is allowed to "strip off" a second priority lien on his home, pursuant to 11 U.S.C. § 506(a) and (d), when the first priority lien exceeds the value of the property.

We addressed recently this issue and concluded that a wholly unsecured junior lien -- such as the one held here by Bank of America -- is voidable under section 506(d). <u>See McNeal v. GMAC Mortg., LLC (In re McNeal)</u>, 735 F.3d 1263 (11th Cir. 2012). Bank of America acknowledges that this panel is bound by the Court's decision in <u>McNeal</u>, but reserves the right to seek reconsideration of the issue by the <u>en banc</u> Court. <u>Cf. United States v. Smith</u>, 122 F.3d 1355, 1359 (11th Cir. 1997) ("Under the prior panel precedent rule, we are bound by earlier panel holdings . . . unless and until they are overruled <u>en banc</u> or by the Supreme Court.").

## AFFIRMED.