

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

SELECT PORTFOLIO SERVICING, INC.,

Appellant,

v.

Case No. 5D14-4022

ROBERT WOROBEC, ETC., ET AL.,

Appellees.

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Opinion filed December 4, 2015

Appeal from the Circuit Court  
for Volusia County,  
William A. Parsons, Judge.

Victor Kline, of Greenspoon Marder, P.A.,  
Orlando, and John H. Pelzer, of  
Greenspoon Marder, P.A., Fort  
Lauderdale, for Appellant.

Robert W. Elton, Ormond Beach, for  
Appellee Robert Worobec.

No Appearance for other Appellees.

EVANDER, J.

Select Portfolio Servicing, Inc. ("SPS"), appeals the trial court's June 6, 2014, order dismissing SPS's foreclosure action against Robert Worobec and the trial court's October 1, 2014, order denying SPS's motion to vacate the order of dismissal. SPS's

complaint was filed in contravention of the automatic stay arising from Worobec's earlier filing of a petition for bankruptcy.

Actions taken in violation of an automatic stay are "void and without effect" even where there is no actual notice of the stay. *McMahon v. Ryan*, 964 So. 2d 198, 200 (Fla. 5th DCA 2007) (quoting *Borg-Warner Acceptance Corp. v. Hall*, 685 F.2d 1306, 1308 (11th Cir. 1982)); see also *Personalized Air Conditioning, Inc. v. C.M. Sys., Inc.*, 522 So. 2d 465, 466 (Fla. 4th DCA 1988). Accordingly, we affirm the dismissal of SPS's action. Our affirmance is without prejudice to SPS filing a new foreclosure suit.<sup>1</sup>

AFFIRMED.

BERGER and EDWARDS, JJ., concur.

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<sup>1</sup> Worobec was discharged from bankruptcy on August 19, 2014.