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In the
United States Court of Appeals
For the Second Circuit

August Term 2013

No. 12-4131-bk

IN RE: MARY VERONICA SANTIAGO-MONTEVERDE,
Debtor.

MARY VERONICA SANTIAGO-MONTEVERDE,
Debtor-Appellant,

v.

JOHN S. PEREIRA, CHAPTER 7 TRUSTEE,
Trustee-Appellee.

Appeal from the United States District Court
for the Southern District of New York.
No. 12 CV 4238 — P. Kevin Castel, *Judge.*

ARGUED: SEPTEMBER 23, 2013

DECIDED: MARCH 2, 2015

Before: SACK, PARKER, and RAGGI, *Circuit Judges.*

1 Appeal from a decision of the United States District Court for the Southern
2 District of New York (P. Kevin Castel, J.) affirming the bankruptcy court’s order
3 striking the debtor’s claim that the value of her rent-stabilized lease was exempt
4 from her bankruptcy estate as a “local public assistance benefit” within the
5 meaning of New York Debtor and Creditor Law § 282(2). We previously
6 concluded that the application of section 282(2) to New York’s rent stabilization
7 laws raised an unresolved question of New York law and certified the question
8 to the New York Court of Appeals. The Court of Appeals has now responded
9 that the value of a rent-stabilized lease is a “local public assistance benefit” under
10 New York law. We therefore reverse the decision of the district court and remand
11 for further proceedings consistent with this opinion.

12 _____
13 RONALD J. MANN, Columbia University School of Law, New
14 York, NY, (Kathleen G. Cully, Kathleen G. Cully PLLC, New
15 York, NY, *on the brief*), *for Debtor-Appellant*.

16 J. DAVID DANTZLER, JR. (John P. Campo, Eric L. Unis, *on the*
17 *brief*) Troutman Sanders LLP, New York, NY, *for Trustee-*
18 *Appellee*.

19 Ira L. Herman, Thompson & Knight LLP, New York, NY, *for*
20 *Amicus Curiae, New York City Bankruptcy Assistance Project,*
21 *supporting Debtor-Appellant*.

22 Carolyn E. Coffey (*of counsel* to Jeanette Zelhof), MFY Legal
23 Service, Inc., New York, NY, *for Amicus Curiae, MFY Legal*
24 *Services, Inc., supporting Debtor-Appellant*.

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1 PER CURIAM:

2 Debtor-Appellant Mary Santiago-Monteverde appealed to this Court from
3 a decision of the district court affirming the bankruptcy court’s ruling that her
4 residential lease, rent-stabilized under New York’s Rent Stabilization Code, N.Y.
5 Comp. Codes R. & Regs. tit. 9, §§ 2520 *et seq.*, was not exempt from her
6 bankruptcy estate as a “local public assistance benefit” within the meaning of
7 New York Debtor and Creditor Law (“DCL”) § 282(2). We concluded that this
8 question was an important one of unsettled New York law and certified it to the
9 New York Court of Appeals, which accepted the certification. *In re Santiago-*
10 *Monteverde*, 747 F.3d 153 (2d Cir. 2014), *certified question accepted*, 23 N.Y.3d 958
11 (2014). After considering the question, the Court of Appeals concluded that a
12 debtor’s interest in a rent-stabilized lease is a local public assistance benefit under
13 the DCL. *See In re Santiago-Monteverde*, 24 N.Y.3d 283 (2014). We assume the
14 parties’ familiarity with the underlying facts, procedural history, and issues on
15 appeal, which we briefly summarize below.

16 I.

17 Santiago-Monteverde has lived in a rent-stabilized apartment in Lower
18 Manhattan for over forty years. After her husband’s death, she experienced
19 financial difficulties and, in November 2011, filed for Bankruptcy protection
20 under Chapter 7. On Schedule G of her petition, she listed her apartment simply
21 as an “unexpired lease.” The Bankruptcy Trustee, John S. Pereira, determined
22 that she had no assets. Shortly after he did so, Santiago-Monteverde’s landlord,
23 East 7th Street Development Corporation, approached the Trustee and offered to
24 buy the lease to Santiago-Monteverde’s apartment under terms that would
25 permit her to remain in the apartment but would cause the apartment to lose its
26 rent stabilized status.

27 Upon learning that the Trustee planned to accept the offer, Santiago-
28 Monteverde amended her filing, treating the value of her rent-stabilized lease as

1 personal property and claiming an exemption for the property as a “local public
2 assistance benefit” under 11 U.S.C. § 522(b)(3) and DCL § 282(2).

3 The Trustee moved to strike this claim of exemption. The bankruptcy court
4 granted the motion on the ground that a rent stabilized lease did not qualify as a
5 “local public assistance benefit,” but was instead “a quirk of the regulatory
6 scheme in the New York housing market.” *In re Santiago–Monteverde*, 466 B.R.
7 621, 624-25 (Bankr. S.D.N.Y. 2012). Santiago-Monteverde appealed to the district
8 court. The district court affirmed, concluding that the rent stabilized lease was
9 “the collateral consequence of a regulatory scheme” rather than a local public
10 assistance benefit. *In re Santiago–Monteverde*, Nos. 12-CV-4238 (PKC), 11-15494
11 (JMP), 2012 WL 3966335 *2 (S.D.N.Y. Sept. 10, 2012).

12 Santiago-Monteverde appealed to this Court contending that her rent-
13 stabilized lease does qualify as such a benefit when one takes into account the
14 protections afforded by the rent-stabilization program and the value they create
15 in a lease. The Trustee, who had obtained permission from the bankruptcy court
16 to purchase and assign the lease, argued that the legislature had never intended
17 that “local public assistance benefit” be read so broadly.

18 II.

19 In our prior opinion, we noted that, although New York courts had
20 addressed related questions, none had decided whether a debtor can prevent the
21 assumption and assignment of a rent-stabilized lease on the ground that it is a
22 “local public assistance benefit” within the meaning of DCL § 282(2). Because
23 resolution of that issue determines the outcome of this appeal and because the
24 issue is a matter of significant public importance, we certified the following
25 question to the New York Court of Appeals:

26 Whether a debtor-tenant possesses a property interest in the protected
27 value of her rent-stabilized lease that may be exempted from her
28 bankruptcy estate pursuant to New York State Debtor and Creditor Law
29 Section 282(2) as a “local public assistance benefit”?

