

was in violation of the automatic-stay provision of the Bankruptcy Code, 11 U.S.C. § 362. Section 362 provides for an automatic stay of all efforts by creditors outside the bankruptcy proceeding to collect debts from the bankrupt debtor. *In re Radcliff*, 563 F.3d 627, 630 (7th Cir. 2009). The stay takes effect immediately upon the filing of the bankruptcy petition. *Id.* Among other things, the petition operates as a stay of—

- (1) the commencement or continuation of a judicial action or proceeding against the debtor;
- (2) the enforcement, against the debtor or property of the estate, of a judgment obtained before the commencement of the bankruptcy case;
- (3) any act to obtain possession of property of the estate; and
- (4) any act to create, perfect, or enforce any lien against property of the estate.

§ 362(a)(1)–(4). In this circuit, actions taken in violation of the stay are generally void. *See Middle Tenn. News Co., Inc. v. Charnel of Cincinnati, Inc.*, 250 F.3d 1077, 1082 (7th Cir. 2001); *Matthews v. Rosene*, 739 F.2d 249, 251 (7th Cir. 1984).

Here, plaintiff does not provide legal authority explaining how the automatic stay that took effect immediately upon the filing of defendant’s bankruptcy petition, on September 27, would affect the Court’s entry of judgment and foreclosure over three weeks earlier, on September 4. Was the property still “property of the estate” such that the enforcement, i.e., public sale, pursuant to the Court’s judgment “obtained before the commencement of the bankruptcy case,” *see* § 362(a)(2), violated the stay? Or did the entry of judgment and foreclosure terminate defendant’s interests in the property? Further, if the property was still property of the estate, does the bankruptcy stay necessarily void the subsequent sale of the property, particularly when setting aside the sale may prejudice the buyer of the property? It was a residential property and may, by now, be a family’s home. These issues are not discussed in plaintiff’s motion.

The Court therefore **DENIES** plaintiff’s motion to vacate judgment and set aside sale (Doc. 20). Plaintiff is given leave to file a new motion providing legal support for its

position.

IT IS SO ORDERED.

DATED: January 17, 2014

/s/ WILLIAM D. STIEHL
DISTRICT JUDGE