

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**BANCO DE DESARROLLO
ECONOMICO PARA
PUERTO RICO**

v.

CIVIL NO. 06-1620(DRD)

**MARCELINO OJEDA-BURGOS, et al.,
Defendants**

ORDER

The instant case was filed on December 7, 2004, at the Puerto Rico Court of First Instance District Subsection, Ciales Part, Civil Case No. TD-220-0530. Summons and copy of the Complaint and Third Party Complaint were served upon the United States Department of Agriculture (the Government), Third Party Defendant on May 30, 2006. On June 21, 2006, the Government filed in this District Court a Notice of Removal asserting that the local state courts were preempted from entertaining such complaint (Docket No. 1). Although perfunctory alleged, the Government's grounds for removal are that since the Government is a defendant and the complaint is related to the foreclosure of real property wherein the Government may have a lien, the proper forum to entertain this cause of action is the U.S. District Court.

From the face of the complaint filed before the local state court, the instant action seeks collection of monies, foreclosure and real property lien wherein the United States of America is a named Third Party Defendant. The Court holds that there is a *prima facie* showing of federal jurisdiction and that complete preemption may exist in accordance with 28 U.S.C.A. §§ 1441(b), 1444, and 2410 therefore, the instant case shall be removed to this Court.

Further, the State Court is forewarned that the filing of a Notice of Removal together with proper notice to adverse parties and to the Clerk of the State Court perfects the removal. From this moment on "the State court shall proceed no further unless and until the case is remanded". 28 U.S.C.A. §1446(d); *Polyplastics Inc. v. Transconex Inc.*, 713 f.2d 875 (1st Cir. 1983). The removal of the claim automatically stays State proceedings. Therefore, post removal proceedings at the State Court are void and subject annulment and to potential sanctions. *Polyplastics Inc. v. Transconex Inc.*, at 880.

The Court hereby **GRANTS** the Defendant's *Notice of Removal* (Docket No. 1). The Clerk of the Court is **INSTRUCTED** to notify this Order to the Plaintiff's counsel via Certified Mail and Return Receipt to the following address: Elfren Colon-Rodriguez, ESQ., Banco de Desarrollo Economico para Puerto Rico, P.O. Box 2134, San Juan, Puerto Rico, 00922-2134. Further, the Court **GRANTS** the plaintiff until the **August 1, 2006**, to appear before this Court with a counsel dully admitted to this Bar. Finally, the Government is **ORDERED** to file copy of this Order at the Puerto Rico Court of First Instance, Ciales Division at Case Civil No. TD-220-0530, on or before the **12th day of July 2006**. The Government shall also provide copy of this Order to defendants **on**

or before July 12, 2006. Defendants shall appear before this Court with a counsel duly admitted to this Bar **on or before August 1, 2006.** An informative motion shall be filed by the Government **on or before July 13, 2006,** evidencing compliance with the Order.

Finally, the Court notes that the Government has filed a motion requesting an extension of time until August 19, 2006, to file its responsive pleading (Docket No. 2), and a motion requesting until August 19, 2006, to submit certified translations of the Summons, Complaint, and Pleadings relating to the instant case filed before the local state court (Docket No. 3). The Court hereby **GRANTS in part** both motions. The Government is granted **until August 18, 2006** to file its Answer to the Complaint and/or otherwise plead, and to file certified translations of the named documents in the Spanish language.

An Initial Case Management and Scheduling Conference shall be scheduled promptly after the Government's file its Answer to the Complaint and plaintiff and defendants appearance before this Court.

IT IS SO ORDERED.

In San Juan, Puerto Rico this 6th day of July 2006.

**S/DANIEL R. DOMINGUEZ
DANIEL R. DOMINGUEZ
U.S. DISTRICT JUDGE**