

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-097453

11/28/2016

HON. DAVID K. UDALL

CLERK OF THE COURT

L. Popovic

Deputy

NORTH CANYON RANCH OWNERS
ASSOCIATION

SAMUEL C RICHARDSON

v.

PAMELA J ALLEN, et al.

DENNIS BROOKSHIRE

BANK OF AMERICA NATIONAL
ASSOCIATION
NO ADDRESS ON RECORD
FIRST NATIONAL OF NEBRASKA INC
NO ADDRESS ON RECORD
FIRST INTERNATIONAL OF
NEBRASKA INC
NO ADDRESS ON RECORD

RULING

The Court, having taken this matter under advisement after trial was held on November 14, 2016, and the Court having considered the pleadings, the evidence, the testimony of the witnesses and the arguments of counsel, makes the following findings and enters the following order:

THE COURT FINDS that North Canyon Ranch Owners Association is a homeowners association located in Maricopa County, Arizona.

THE COURT FINDS that there are Declarations of Covenants, Conditions and Restrictions applicable to all homeowners.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-097453

11/28/2016

THE COURT FURTHER FINDS that Defendant, Pamela J. Allen, is the owner of the property located at 3951 West Electra Lane, Glendale, Arizona, which is located within the homeowners association.

THE COURT FURTHER FINDS that on or around June 9, 2010, the Defendant failed to pay her assessments and that liens were levied against her property for back payments, attorney's fees, and interest.

THE COURT FURTHER FINDS that on November 5, 2013, the Defendant filed for protection of the U.S. Bankruptcy Court in the District of Arizona. Case number 2:13-BK-19249-PS.

THE COURT FURTHER FINDS that the Association was an unsecured creditor in the bankruptcy proceeding.

THE COURT FURTHER FINDS that prior to the bankruptcy proceeding the Defendant owed \$5,775.08.

THE COURT FURTHER FINDS that the bankruptcy was discharged on February 18, 2014.

THE COURT FURTHER FINDS that Defendant's prior debts no longer exist as of that day.

THE COURT FURTHER FINDS that the Plaintiff sued the Defendant for the same association and attorney's fees in the Justice Court, North Valley Precinct, Maricopa County, Case Number CC2013-062672.

THE COURT FURTHER FINDS that in that matter all issues prior to the bankruptcy were resolved and that the Defendant was ordered to pay \$400.00 to Plaintiff, which included its attorney's fees and costs.

THE COURT FURTHER FINDS that all claims by Plaintiff arising from October 1, 2013, were adjudicated in this matter in Justice Court.

THE COURT FURTHER FINDS that Plaintiff had the right to foreclose under those facts but chose not to do that.

THE COURT FURTHER FINDS that the doctrine of *Res Judicata* prevents the Plaintiff from collecting on any fees, costs, or fines associated with the Justice Court matter.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-097453

11/28/2016

THE COURT FURTHER FINDS that post bankruptcy, since the discharge date of February 18, 2014, the Defendant is current in all of her obligations.

THE COURT FURTHER FINDS that the bankruptcy code 11 USC § 524 prohibits the collection of personal debt that has been previously discharged.

THE COURT FURTHER FINDS that the code would prohibit the Plaintiff from collecting old attorney's fees incurred prior to the filing of the Petition for Bankruptcy.

THE COURT FURTHER FINDS that the Plaintiff has failed to meet their burden of proof.

IT IS ORDERED dismissing this case with prejudice.

Done this 28th day of November.

/ s / HONORABLE DAVID K. UDALL

HONORABLE DAVID K. UDALL
JUDICIAL OFFICER OF THE SUPERIOR COURT