

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF )

HARRISON ASSOCIATES, LTD., )

DEBTOR )

CASE NO. BK79-1612

A80-201

OCCIDENTAL LIFE INSURANCE )  
COMPANY OF CALIFORNIA, QUEENS )  
COUNTY SAVINGS BANK and BRENTON )  
NATIONAL BANK OF DES MOINES, )

Plaintiffs )

vs. )

HARRISON ASSOCIATES, LTD., )

Defendant )

MEMORANDUM AND ORDER

This is a complaint for relief from stay to allow plaintiffs to foreclose on an apartment complex known as Tally Ho Apartments. Two of the plaintiffs hold mortgages on Tally Ho, and the third plaintiff holds a primary mortgage on Georgetowne Apartments with additional security in Tally Ho in the event proceeds from the sale of Georgetowne are insufficient.

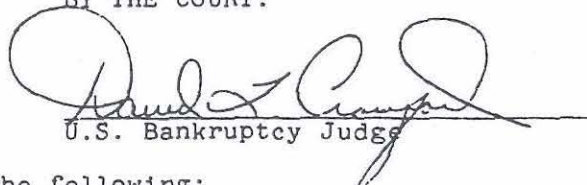
Plaintiffs allege that the debtor has no legal or equitable interest in Tally Ho and seek a declaration that the apartment complex is not a part of the estate. However, the evidence before me indicates that the debtor, a limited partnership, acquired an interest in the complex by merging with another limited partnership, the record owner of the complex. Also, there is no evidence to indicate that the mortgages on Tally Ho are in default, and although Georgetowne Apartments is being foreclosed, there is no showing that there will be a deficiency in that proceeding. Finally, I note that the debtor has filed a plan in this Chapter 11 proceeding.

In view of the facts stated, relief from the stay should be denied. Accordingly, it is

ORDERED that the plaintiffs' request for relief from the stay be, and it hereby is, denied.

DATED: June 17, 1980.

BY THE COURT:

  
U.S. Bankruptcy Judge

Copies mailed to each of the following:  
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