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

IN RE:

ANA LUISA TOLEDO DAVILA

Debtor

CASE NO. 22-02691 (ESL)

CHAPTER 7

ANA LUISA TOLEDO DAVILA

Plaintiff

vs.

PLANET HOME LENDING, LLC, *et al.*

Defendant

ADV. PROC. NO. 23-00050 (ESL)

OPINION AND ORDER

This adversary proceeding is before the court upon the joint *Motion [] (1) to Dismiss Complaint for Lack of Subject Matter Jurisdiction or (2) to Abstain* and the *Memorandum in Support []* thereof filed by Luna Residential II LLC (“Luna Residential”) and Planet Home Lending, LLC (“Planet”, and collectively with Luna Residential, “PHL”) (“*PHL’s Motion to Dismiss*”, dkt. #49 and #49-1), the *Motion for Dismissal, and Memorandum of Law in Support* filed by Matilde del Rosario Toledo Davila’s (“Matilde Toledo”) (“*Matilde Toledo’s Motion to Dismiss*”, dkt. #50), and Debtor/Plaintiff’s responses thereto (dkt. #57, 60).

For the reasons discussed below, *PHL’s Motion to Dismiss* is GRANTED, and the *Complaint* is dismissed for lack of subject-matter jurisdiction.

1 Procedural Background

2 A. Background of Lead Bankr. Case No. 22-02691

3 1. Debtor/Plaintiff filed a Chapter 7 bankruptcy petition on September 9, 2022 (Lead
4 Case No. 22-02691, dkt. #1).¹ Debtor/Plaintiff disclosed in her schedules, the residential property
5 at issue in this adversary proceeding located at 202 Calle Sol, San Juan, PR 00901 (the “Property”)
6 as having a value of \$1,995,000.00 (*Schedule A/B: Property*, Lead Case No. 22-02691, dkt. #6
7 and as last amended at dkt. #119), and identified PHL as having a contingent, unliquidated, and
8 disputed secured claim against the Property (*Schedule D: Creditors Who Have Claims Secured*
9 *by Property*, Lead Case No. 22-02691, dkt. #8 and as last amended at dkt. #110).

10 2. Additionally, Debtor/Plaintiff claimed a state exemption under the Homestead
11 Right and Family Home Protection Act of 2011, 31 P.R.L.A. §1858, disclosing the Property as
12 her homestead (*Amended Schedule C*, Lead Case No. 22-02691, dkt. #71). The Chapter 7 Trustee
13 (“Trustee”) filed an opposition to Debtor/Plaintiff’s homestead exemption (Lead Case No. 22-
14 02691, dkt. #125), that was resolved via a *Stipulation for Settlement Agreement Between Debtor*
15 *and Chapter 7 Trustee []* (the “*Stipulation*”, Lead Case No. 22-02691, dkt. #138), that provides
16 that, “[u]pon the entry on an Order authorizing [the *Stipulation*] and [p]ursuant to 11 U.S.C. §554,
17 the [Property] will be deemed abandoned” (Lead Case No. 22-02691, dkt. #138, p. 3). The court
18 issued an *Order Approving Settlement/Stipulation* on April 17, 2023 (Lead Case No. 22-02691,
19 dkt. #146).

20 3. On April 18, 2023, in accordance with the *Stipulation*, the Trustee filed a *Notice*
21 *of Abandonment of Property and Request for Clerk to Notice* (the “*Notice of Abandonment*”, dkt.
22 #147) abandoning the Property pursuant to 11 U.S.C. §554 (*id.*, p. 1, Asset No. 1). The *Notice of*
23 *Abandonment* reads, in pertinent part, as follows:

24 Reason For Abandonment: Per Stipulation Dkt. No. 138, all scheduled litigation
25 and causes of actions are deemed abandoned. Dkt. No. 146 Order approving

26
27 ¹ On November 17, 2022, the Debtor/Plaintiff moved for conversion of the case to a Chapter 13, which was later
withdrawn (dkt. #138, p. 2, ¶3, and p. 3, ¶8(d)).

1 stipulation. Additional property listed and abandoned herein as they are
2 burdensome to the Estate or the cost of administration outweighs its value.

3 (1) In considering that abandonment of property of the Estate is governed by section
4 554, the undersigned Trustee has determined, after a proper inquiry, that the above
5 listed property is not proper for administration, and/or is burdensome to this Estate
6 or of inconsequential value to the Estate.

7 Id., p. 5. See also, *Individual Estate Property Record and Report*, dkt. #150 (Property is disclosed
8 as “OA”, abandoned).

9 B. Background of Adv. Proc. No. 23-00050

10 4. On July 6, 2023, that is, after the *Notice of Abandonment*, Debtor/Plaintiff filed
11 the instant adversary proceeding against Luna Residential, Planet, Matilde Toledo, and other co-
12 defendants (dkt. #1). In the *Complaint*, Debtor/Plaintiff requests a declaratory judgment to the
13 effect that she owns the Property free and clear of liens, claims and encumbrances other than
14 property taxes (id. at ¶15). She avers that on or around October 1998, Doral Bank extended a
15 credit facility to the Debtor/Plaintiff with her parents as co-debtors (the “Loan”) (id. at ¶16); that
16 the Loan is secured by, *inter alia*, a first mortgage deed and promissory note (the “Note”) payable
17 to Doral Bank (id. at ¶17); that, in April 2014, Banco Santander de Puerto Rico (“Banco
18 Santander”) notified Debtor/Plaintiff that it was the servicer for the loan (id. at ¶22); that, in a
19 foreclosure suit filed by Doral Bank against Debtor/Plaintiff in the Puerto Rico Court of First
20 Instance (the “State Court”), Case No. KCD 2009-0268 (the “First State Court Case”), the State
21 Court found that Banco Santander was unable to prove that it was the holder the Note in
22 accordance with the requirements of the Negotiable Instruments Act, 19 P.R.L.A. §401 *et seq.*,
23 and consequently did not authorize the disbursement of certain consigned funds to Banco
24 Santander (id. at ¶30). That, subsequently, Banco Santander filed a collection of money and
25 foreclosure complaint in the State Court against Debtor/Plaintiff, Case No. SJ-2019cv4102,
26 alleging that it was the good faith holder of the Note (the “Second State Court Case”) (id. at ¶31);
27 and that Banco Santander’s allegations are barred by *res judicata* because the First State Court
Case allegedly determined that Banco Santander was not the good faith holder of the Note (id. at
¶31). That, on or around July 2021, Banco Santander and Luna Residential filed a motion in the

1 Second State Court Case requesting that Banco Santander be substituted by Luna Residential,
2 who purchased the Note from Banco Santander (id. at ¶32), and the State Court authorized the
3 substitution (id. at ¶32). That Debtor/Plaintiff filed a motion in the Second State Court Case
4 requesting to exercise her right of redemption of litigious credit, arguing that Luna Residential
5 did not have a claim as to the Property because of the prior determination by the State Court and,
6 thus, any subsequent assignment or transfer of the Note is null (id. at ¶33). That the State Court
7 in the Second State Court Case denied Debtor/Plaintiff's motion and found that the ruling in the
8 First State Court Case was not *res judicata* and did not bind the court in the Second State Court
9 Case (id. at ¶¶33-34). Notwithstanding, Debtor/Plaintiff argues that Banco Santander did not have
10 the ability to transfer the Note and, thus, Luna Residential never became the legitimate, good-
11 faith transferee of the Note, and cannot be a creditor with a secured claim over the Property. The
12 filing of Debtor/Plaintiff's Chapter 7 petition stayed the Second State Court Case (id. at ¶¶34-37).

13 5. On August 30, 2023, PHL filed *PHL's Motion to Dismiss* (dkt. #49 and #49-1),
14 requesting dismissal under Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction or, in
15 the alternative, that the court abstaining from hearing the *Complaint* on account of the proceedings
16 pending before the State Court in the Second State Court Case. PHL argues that the Property is
17 no longer property of the bankruptcy estate because it was abandoned by the Trustee, that the
18 matters at issue in this adversary proceeding are not related to the lead bankruptcy case and are
19 instead premised on state law, that there is no nexus between the relief sought in the *Complaint*
20 and the administration of the bankruptcy estate, and that the issues between the parties can be
21 timely adjudicated in the State Court Case. PHL argues that this adversary proceeding it is not a
22 core proceeding and/or that mandatory abstention is required and/or discretionary abstention is
23 appropriate.

24 6. On September 1, 2023, Matilde Toledo filed *Matilde Toledo's Motion to Dismiss*
25 (dkt. #50), requesting that the *Complaint* be dismissed under Fed. R. Civ. P. 12(b)(6) because it
26 fails to state a cognizable claim against her. Matilde Toledo argues that this court should abstain
27 from considering the *Complaint* as there is a pending State Court case addressing the issues raised

1 in the *Complaint* that was commenced before the filing of the Chapter 7 Petition. Further, Matilde
2 Toledo argues that the only allegation referring to her in the *Complaint* is found in Paragraph 9
3 and is limited to stating that she is Debtor’s sister and part of the hereditary estate of Debtor’s
4 parents (see, dkt. #1, ¶9). Thus, Matilde Toledo argues that the *Complaint* has insufficient factual
5 data to state a claim against her.

6 7. On September 22, 2023, Debtor/Plaintiff filed her response to *PHL’s Motion to*
7 *Dismiss* (dkt. #57), averring that this court has jurisdiction under 28 U.S.C. §§157 and 1334, and
8 that this is a core proceeding under 28 U.S.C. §157(b)(2)(K) on determinations of the validity,
9 extent, or priority of liens. Further, Debtor/Plaintiff argues that this court has jurisdiction over the
10 Property pursuant to 28 U.S.C. §1334(e)(1). Debtor/Plaintiff avers that she filed this adversary
11 proceeding “to address mortgage issues related to her homestead that was involved in a
12 foreclosure case in state court” (id. at p. 2). Debtor/Plaintiff also argues that whether PHL has a
13 valid lien has a direct impact on the extent of the bankruptcy discharge, and that the abandonment
14 by the Trustee of the Property does not deprive this court of jurisdiction because the Property still
15 belongs to Debtor/Plaintiff.

16 8. On September 25, 2023, Debtor/Plaintiff filed her response to *Matilde Toledo’s*
17 *Motion to Dismiss* (dkt. #60) averring that this Adversary Proceeding is a core matter and, as
18 such, mandatory abstention does not apply. Plaintiff further avers that Matilde Toledo “is included
19 as defendant, only for notice purposes, as part of the hereditary estate of Debtor’s parents” (id. at
20 p. 2) and if Matilde Toledo were to “stipulate that she has no interest in [the Property],
21 [Debtor/Plaintiff] would not oppose her dismissal as a party to [the] *Complaint*” (id. at pp. 2 and
22 16). As to the abstention argument, Debtor/Plaintiff argues that although there is a state court
23 action pending that was stayed because of the filing of the Chapter 7 Petition (the Second State
24 Court Case), key matters are involved as the claim exists now considering the bankruptcy filing
25 and Debtor’s claim of exemption over the Property.

1 9. On October 31, 2023, PHL filed a motion for leave to file a reply to
2 Debtor/Plaintiff's response (dkt. #66), which was denied as untimely on November 2, 2023 (dkt.
3 #69) after Debtor/Plaintiff filed an opposition thereto (dkt. #67).

4 10. On January 12, 2024, the Preliminary Pretrial scheduled for January 26, 2024, was
5 continued without a date pending resolution of the motions to dismiss filed by PHL and Matilde
6 Toledo (dkt. #84).

7 Legal Issues

8 The issue before this court is whether the adversary proceeding is core or non-core matter
9 over which it has jurisdiction.

10 Position of the Parties

11 A. PHL's Position

12 PHL avers that the court lacks jurisdiction to grant relief requested by Debtor, namely, a
13 determination that she owns the Property – which is no longer part of the bankruptcy estate and
14 is subject to a homestead exemption – free and clear of liens, claims and encumbrances other than
15 property taxes pursuant to Fed. R. Civ. P. 12(b)(1).

16 B. Debtor/Plaintiff's Position

17 Debtor/Plaintiff avers that this court has jurisdiction under 28 U.S.C. §§157 and 1334, and
18 that this is a core proceeding under 28 U.S.C. §157(b)(2)(K) on determinations of the validity,
19 extent, or priority of liens. Debtor/Plaintiff also argues that whether PHL has a valid lien has a
20 direct impact on the extent of the bankruptcy discharge, and that the abandonment by the Trustee
21 of the Property does not deprive this court of jurisdiction because the Property still belongs to
22 Debtor/Plaintiff.

23 Legal Analysis

24 (A) *Fed. R. Civ. P. 12(b)(1) Standard*

25 When faced with motions to dismiss under both Fed. R. Civ. P. 12(b)(1) and (b)(6), “a
26 district court, absent good reason to do otherwise, should ordinarily decide the 12(b)(1) motion
27 first.” Ne. Erectors Ass'n of BTEA v. Sec'y of Lab., Occupational Safety & Health Admin., 62

1 F.3d 37, 39 (1st Cir. 1995), citing 5A Charles Wright & Arthur Miller, *Federal Practice and*
2 *Procedure* §1350, at 210 (1990); Bell v. Hood, 327 U.S. 678, 682 (1945) (“Whether the complaint
3 states a cause of action on which relief could be granted is a question of law and just as issues of
4 fact it must be decided after and not before the court has assumed jurisdiction over the
5 controversy.”).

6 Pursuant to Fed. R. Civ. P. 12(b)(1), applicable in bankruptcy adversary proceedings
7 through Fed. R. Bankr. P. 7012, a party may request the dismissal of a complaint for “lack of
8 subject matter jurisdiction.” Fed. R. Bankr. P. 7012(b)(1). “In ruling on a motion to dismiss for
9 lack of subject matter jurisdiction under [Fed. R. Civ. P. 12(b)(1)], the district court must construe
10 the complaint liberally, treating all well-pleaded facts as true and indulging all reasonable
11 inferences in favor of the plaintiff. In addition, the court may consider whatever evidence has
12 been submitted...”. In re Betterroads Asphalt, 2021 WL 5182431, *6 (Bankr. D.P.R. 2021),
13 quoting Portland Pipe Line Corp., 164 F. Supp. 3d 157, 173-74 (D. Maine
14 2016). See also, Gonzalez v. U.S., 284 F. 3d 281, 288 (1st Cir. 2002).

15 (B) *Jurisdiction of this Court: Core and Non-Core Matters*

16 The jurisdiction of bankruptcy courts is created and limited by statute. See, Celotex Corp.
17 v. Edwards, 514 U.S. 300, 307 (1995). “No matter how tantalizing a problem may be, a federal []
18 court cannot scratch intellectual itches unless it has jurisdiction to reach them.” Director, OWCP
19 v. Bath Iron Works Corp., 853 F.2d 11, 13 (1st Cir. 1988).

20 Bankruptcy courts have subject matter jurisdiction over proceedings “arising under title
21 11, or arising in or related to cases under title 11.” 28 U.S.C. §1334(b). See also, 28 U.S.C.
22 §157(b)(1). The statute distinguishes between cases “arising under”, “arising in” and “related to”
23 proceedings under Title 11. See, In re Abraham Petroleum Corp., 447 B.R. 412, 415 (Bankr.
24 D.P.R. 2011). “‘Arising under’ proceedings are those cases in which the cause of action is created
25 by title 11.” Id., quoting In re Middlesex Power Equipment & Marine Inc., 292 F.3d 61, 68 (1st
26 Cir. 2002). “‘Arising in’ proceedings are those that are not based on any right expressly created
27 by title 11, but nevertheless, would have no existence outside of the bankruptcy.” Id. (citation

1 omitted). “‘Related to’ proceedings are those which potentially have some effect on the
2 bankruptcy estate, such as altering bankrupt's rights, liabilities, options, or freedom of action, or
3 otherwise have an impact upon the handling and administration of the bankruptcy estate.” Id.
4 (citations omitted). In re Maldonado Perez, 2019 WL 5799327, *2 (Bankr. D.P.R. 2019) (citations
5 omitted) (“A proceeding is related to bankruptcy if the outcome of that proceeding could
6 conceivably have any effect on the bankruptcy estate.”).

7 Core proceedings are those involving matters “arising under title 11” or “arising in a case
8 under title 11” of the United States Code, that is, they would not exist outside of bankruptcy. In
9 re Abraham Petroleum Corp., 447 B.R. at 415, quoting 1 Daniel R. Cowans, *Bankruptcy Law and*
10 *Practice* §1.2 at 31 (1989). “A core proceeding, for bankruptcy jurisdictional purposes, is an
11 action that has as its foundation the creation, recognition, or adjudication of rights that would not
12 exist independent of a bankruptcy environment.” In re Med. Educ. & Health Servs., Inc., 459 B.R.
13 527, 545 (Bankr. D.P.R. 2011) (citations and quotations omitted). Section 157 sets forth a non-
14 exclusive list of core proceedings which include, among others, determinations of the validity,
15 extent, or priority of liens. See, 28 U.S.C. §157(b)(2)(K).

16 A non-core proceeding has a “life of its own in either state or federal common law or
17 statute independent of the federal bankruptcy laws.” See, In re Roman-Perez, 527 B.R. 844, 851
18 (Bankr. D.P.R. 2015), quoting Salomon v. Kaiser (In re Kaiser), 722 F.2d 1574, 1582 (2nd Cir.
19 1983). See also, Scotland Guard Servs. v. Autoridad de Energia Electrica (In re Scotland Guard
20 Servs., Inc.), 179 B.R. 764, 767 (Bankr. D.P.R. 1993) (non-core proceedings are those that “would
21 survive outside of bankruptcy”). The United States Court of Appeals for the First Circuit has
22 defined non-core proceedings as claims that did not arise in the core bankruptcy function of
23 adjudicating debtor-creditor rights. In re Arnold Print Works v. Apkin, 815 F.2d 165, 167 (1st
24 Cir. 1987). See also, In re Caribbean Petroleum Corp., 443 B.R. 560 (Bankr. D.P.R. 2010)
25 (discussing the difference between core and non-core proceedings).

26 “It is the bankruptcy court’s responsibility to determine whether each claim before it is
27 core or non-core.” Executive Benefits Ins. Agency v. Arkison, 573 U.S. 25, 33 (2014). “A

1 determination of whether a controversy is core or non-core depends upon its relation to the basic
2 functions of the bankruptcy court and not on the federal or state basis for the claim.” In re
3 Abraham Petroleum Corp., 447 B.R. at 415, citing In re Arnold Print Works, Inc., 815 F.2d 165,
4 169 (1st Cir. 1987). “If the proceeding, by its nature, arises only within the bankruptcy context
5 because it involves a right created by federal bankruptcy law, then it is a core proceeding.” Id.,
6 citing In re Wood, 825 F.2d 90, 97 (5th Cir. 1987). “If an action would survive outside of
7 bankruptcy, and in the absence of bankruptcy would have been initiated in a state or a district
8 court, then it clearly involves a non-core matter.” Id., (citation omitted). A proceeding which does
9 not arise under Title 11 or does not arise in or is not related to a case under Title 11 is not
10 appropriate for bankruptcy judicial determination. See, In re Maldonado Perez, 2019 WL
11 5799327 at *2.

12 A bankruptcy court may hear and finally determine all core bankruptcy proceedings
13 without the parties’ consent. See, 28 U.S.C. §157(b). In non-core “related to” proceedings, the
14 U.S. Supreme Court has stated the following:

15 “non-core” proceedings—i.e., proceedings that are ‘not core’ but are otherwise
16 related to a case under title 11—[28 U.S.C. §157(c)] authorizes a bankruptcy court
17 to hear the proceeding, and then submit proposed findings of fact and conclusions
18 of law to the district court. The district court must then review those proposed
19 findings and conclusions *de novo* and enter any final orders or judgments. There is
one statutory exception to this rule: if all parties ‘consent’, the statute permits the
bankruptcy judge to hear and determine and to enter appropriate orders and
judgments as if the proceeding were core.

20 Arkison, 573 U.S. at 34. In the instant case, Debtor/Plaintiff, Luna Residential and Planet have
21 consented to the entry of a final order by the bankruptcy judge with respect to the pending motions
22 to dismiss.² Codefendant Matilde Toledo did not include language to the effect of whether she
23 consents to the entry of a final order by this court in this Adversary Proceeding. Notably, 28
24 U.S.C. §157(c)(2) requires the consent of “all the parties to the proceeding” for the referral of a
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27 ² PHL consent “to the entry of a final order by this Court solely with respect to this motion if it is determined that,
absent consent, this Court cannot enter final orders or judgments consistent with Article III of the United States
Constitution” (dkt. #49, p. 2, ¶2).

1 proceeding related to a case under Title 11 to a bankruptcy judge to hear and determine and to
2 enter appropriate orders and judgments. This requirement is not met in the present case.

3 (C) *Property of the Bankruptcy Estate, Abandonment by the Trustee, and Jurisdiction over*
4 *Abandoned Property*

5 Section 541(a) of the Bankruptcy Code defines the property that comprises the bankruptcy
6 estate. Property of the estate includes “all legal or equitable interests of the debtor in property as
7 of the commencement of the case.” 11 U.S.C. §541(a)(1). This provision is broad and
8 encompasses all rights and interests of the debtor in real property. See, Alan N. Resnick & Henry
9 J. Sommer, 5 *Collier on Bankruptcy* ¶541.04 (16th ed. 2024). “Even though section 541 provides
10 the framework for determining the scope of the debtor’s estate and what property will be included
11 in the estate, it does not provide any rules for determining whether the debtor has an interest in
12 property in the first place. That gap is filled most of the time by nonbankruptcy law. The Supreme
13 Court has stated that ‘Congress has generally left the determination of property rights in the assets
14 of a bankrupt’s estate to state law... Unless some federal interest requires a different result, there
15 is no reason why such interests should be analyzed differently simply because an interested party
16 is involved in a bankruptcy proceeding.’” 5 *Collier on Bankruptcy* ¶541.03 (16th ed. 2024), citing
17 Butner v. United States, 440 U.S. 48, 54-55 (1979). Thus, property rights in bankruptcy are
18 created, defined, and determined by state law. See, Travelers Casualty & Surety Co. of America
19 v. Pacific Gas & Elec. Co., 549 U.S. 443, 451 (2007), quoting Butner v. United States, 440 U.S.
20 48, 55 (1979).

21 The Bankruptcy Code provides that “the trustee may abandon any property of the estate
22 that is burdensome to the estate or that is of inconsequential value and benefit to the estate.” 11
23 U.S.C. §554. Furthermore, LBR 6007-1 states that “[t]he abandonment will be considered
24 uncontested if no objection to a notice of intent to abandon is filed within fourteen (14) days of
25 the mailing of the notice of abandonment.” PR LBR 6007-1. Upon abandonment, “property [is
26 removed] from the bankruptcy estate and [property is returned] to the debtor as though no
27 bankruptcy occurred.” In re Melendez, 2015 WL 7820980, *3 (Bankr. D.P.R. 2015), quoting In

1 re Pilz Compact Disc, Inc., 229 B.R. 630, 638 (Bankr. E.D.Pa. 1999). For this reason, upon
2 abandonment under Section 554, the trustee is divested of control over the property. Thus,
3 abandonment constitutes a divestiture of all of the estate’s interests in the property. 5 *Collier on*
4 *Bankruptcy* ¶554.02 (16th ed. 2024). Usually, abandonment of property will end the court’s
5 jurisdiction to determine disputes concerning that property, unless the result of the dispute could
6 have some effect on the bankruptcy case. See, 5 *Collier on Bankruptcy* ¶554.02 (16th ed. 2024),
7 citing In re Xonics, Inc., 813 F.2d 127 (7th Cir. 1987); United States v. Fleet Nat’l Bank (In re
8 Calore Express Co., Inc.), 288 B.R. 167, 169-70 (D. Mass. 2002) (“... if a given dispute is
9 unrelated to a bankruptcy estate, a bankruptcy court ... has no subject-matter jurisdiction over that
10 dispute.”).

11 Jurisdiction is lost once the property is no longer property of the estate. See, 1 *Collier on*
12 *Bankruptcy* ¶3.01[4] (16th ed. 2024), citing Wilton Armetale, Inc. v. Gordon Bros. Commer. &
13 Indus., LLC (In re Wilton Armedale, Inc.), 2019 Bankr. LEXIS 787 (Bankr. E.D. Pa. 2019) (suit
14 based on cause of action that had been abandoned by the trustee); Ostroff v. American Home
15 Mortgage (In re Ostroff), 433 B.R. 442 (Bankr. D.D.C. 2010) (no jurisdiction to determine
16 validity of lien on exempt property in Chapter 7 case). See also, In re Travers, 507 B.R. 62, 71
17 (Bankr. D.R.I. 2014) (citations omitted) (“jurisdiction is ‘temporal ; while the bankruptcy court
18 may have exclusive jurisdiction over property as of the commencement of a debtor's case, the
19 bankruptcy court's jurisdiction over such property ends when it is no longer property of the
20 estate.”). In this regard, courts have found that examples of litigation not within the bankruptcy
21 jurisdiction of the district courts include litigation of liens or other interests on property that are
22 no longer property of the bankruptcy estate. See, 1 *Collier on Bankruptcy* ¶3.01[3][e][v] (16th ed.
23 2024), citing Torkelsen v. Maggio (In re The Guild and Gallery Plus, Inc.), 72 F.3d 1171 (3d Cir.
24 1996); Gardner v. United States (In re Gardner), 913 F.2d 1515 (10th Cir. 1990); In re Ostroff,
25 433 B.R. 442.

1 Discussion

2 The issues raised in the *Complaint* do not “arise under”, “arise in” or “relate to” a
3 proceeding under Title 11. In accordance with the court approved *Stipulation* (Lead Case No. 22-
4 02691, dkt. #138 and #146), the Trustee filed a *Notice of Abandonment* (Lead Case No. 22-02691,
5 dkt. #147) abandoning the Property object of the *Complaint* pursuant to 11 U.S.C. §554 (*id.*, p. 1,
6 Asset No. 1), which went unopposed. The Property is no longer part of the bankruptcy estate.

7 As previously discussed, core proceedings are those involving matters that would not exist
8 outside of bankruptcy. The issues raised in the adversary proceeding are based wholly on non-
9 bankruptcy law as they are strictly governed by Puerto Rico law; they do not depend on the
10 bankruptcy case for their existence and can be properly and timely addressed in the Second State
11 Court Case, which predates Debtor’s Chapter 7 Petition.³ A determination on whether
12 Debtor/Plaintiff owns the Property free and clear will not affect the bankruptcy estate or its
13 administration and will solely benefit the Debtor/Plaintiff. Litigation that would not have an
14 impact on the administration of the bankruptcy case, or on property of the estate, or on the
15 distribution to creditors cannot find a home in the district court based on the court’s bankruptcy
16 jurisdiction. *See, e.g.*, 1 *Collier on Bankruptcy* ¶3.01[3][e][v] (16th ed. 2024), citing *Northen v.*
17 *MDC Innovations, LLC (In re C&M Invs. of High Point, Inc.)*, 2018 Bankr. LEXIS 2497 (Bankr.
18 M.D.N.C. 2018); *AY McDonald Indus. v. McDonald (In re McDonald)*, 590 B.R. 506 (B.A.P.
19 8th Cir 2018). “In the absence of any tangible effect on the bankruptcy case, bankruptcy courts
20 have regularly concluded that they lack jurisdiction to resolve claims.” *In re Maldonado Perez*,
21 2019 WL 5799327 at *2, quoting *In re Boston Reg’l*, 410 F.3d 100, 105 (1st Cir. 2005).

22 This court thus finds that it lacks subject-matter jurisdiction over the adversary proceeding
23 which does not involve estate property and which can have no conceivable effect on the
24 administration of this bankruptcy estate. This dispute is neither a “core” nor “non-core” matter

25 _____
26 ³ The fact that the Second State Court Case predates the filing of the Chapter 7 Petition, addresses the same
27 controversy, and is not dependent on the bankruptcy case weighs in favor of the finding that this Court lacks
jurisdiction to address the Complaint. This Court has found that “[i]f an action survive[s] outside of bankruptcy, and
in the absence of bankruptcy would have been initiated in a state or district court, then it clearly involves non-core
matter.” *Mec Steel Bldgs., Inc. v. San Lorenzo Construction*, 136 B.R. 606, 609 (Bankr.D.P.R.1992).

1 “related to” a bankruptcy proceeding, and the facts in this case do not warrant the court's use of
2 its equitable powers pursuant to 11 U.S.C. §105(a).

3 Having found that it lacks subject-matter jurisdiction, this court declines to address issues
4 of mandatory or permissive abstention, or whether Debtor/Plaintiff pleads a plausible claim for
5 relief under Fed. R. Civ. P. 12(b).

6 Conclusion

7 For the reasons stated herein, *PHL's Motion to Dismiss* (dkt. #49) is hereby GRANTED,
8 and the *Complaint* is dismissed for lack of subject-matter jurisdiction. *Matilde Toledo's Motion*
9 *to Dismiss* (dkt. #50) need not be addressed.

10 Judgment will be entered accordingly.

11 IT IS SO ORDERED.

12 In San Juan, Puerto Rico, this 12th day of April 2024.

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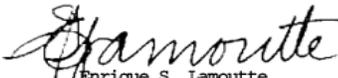
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Enrique S. Lamoutte
United States Bankruptcy Judge