

**IN THE COURT OF APPEALS  
OF THE  
STATE OF MISSISSIPPI  
NO. 95-CA-01321 COA**

**R.B. MOOR**

**APPELLANT**

**v.**

**REBEL AUCTION CO. & UNITED SOUTHERN  
BANK**

**APPELLEES**

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND MAY NOT BE CITED,  
PURSUANT TO M.R.A.P. 35-B

DATE OF JUDGMENT:	11/28/95
TRIAL JUDGE:	HON. EUGENE BOGEN
COURT FROM WHICH APPEALED:	LEFLORE COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	MARTIN KILPATRICK
ATTORNEY FOR APPELLEES:	REBEL AUCTION ATTORNEY, JAMES SHERMAN UNITED SO. BANK ATTORNEY, WILLIAM B. RAIFORD, III
NATURE OF THE CASE:	CIVIL - OTHER
TRIAL COURT DISPOSITION:	SUMMARY JUDGMENT
DISPOSITION:	AFFIRMED - 1/27/98
MOTION FOR REHEARING FILED:	
CERTIORARI FILED:	
MANDATE ISSUED:	2/27/98

BEFORE THOMAS, P.J., DIAZ, AND KING, JJ.

DIAZ, J., FOR THE COURT:

R. B. Moor sued United Southern Bank (United) and Rebel Auction Company (Rebel) in the Circuit Court of Leflore County charging that before, during, and after the auction of the personal properties of Moor's business, United and Rebel breached fiduciary duties owed to Moor and converted his property to their own use. United and Rebel moved for summary judgment, asserting that Moor's action was barred by *res judicata*, by virtue of the prior bankruptcy proceedings. The trial court granted the summary judgment motions, and Moor filed this appeal.

## FACTS

Moor owned and operated an unincorporated business in Greenwood, Mississippi known as Ft. Loring Western Store. Moor filed for Chapter 11 bankruptcy on or about June 4, 1984. Moor and his attorneys were unable to submit an acceptable plan of reorganization, and upon motion of his creditors, Moor's Chapter 11 petition was involuntarily converted to a Chapter 7 liquidation by order of the bankruptcy court on June 27, 1986. The United States Bankruptcy Court entered an order lifting the automatic stay and authorized the property of the store to be sold by public sale to be conducted by Rebel. Moor protested to certain items being sold. He contended these items were not subject to the creditors' security agreements. The bankruptcy court held that these certain items be sold, and an auction was held on April 15, 1987 for these remaining items.

Moor alleged in his subsequent state court action, brought one day short of six years from the date of the original auction, that United and Rebel breached their fiduciary duties to him, acted against his best interest, and converted personal property from the store to their own use. United and Rebel moved for summary judgment on the basis that there was no genuine issue of material fact as to any of Moor's claims and that both United and Rebel were entitled to judgment as a matter of law because Moor's claims were precluded by *res judicata* due to the prior bankruptcy proceedings and the statute of limitations. The trial court granted both motions for summary judgment on the former issues but did not address the latter. Moor now appeals arguing that the trial court misinterpreted *res judicata* and that neither defendant pled estoppel. Because we hold that the case was barred by *res judicata*, there is no need to reach the estoppel issue.

## ISSUE

**Did the trial judge err when he granted United Southern Bank and Rebel Auction Company summary judgment holding that Moor's claims were precluded by *res judicata* due to the prior bankruptcy proceedings?**

Moor argues that the trial judge misinterpreted the doctrines of *res judicata* and estoppel. Moor points out that both these doctrines must be affirmatively pled or lost. Moor goes on to say that although both Rebel and United pled *res judicata*, neither pled estoppel. Because this Court holds that the issue is precluded by *res judicata*, we will only address that issue.

The federal district courts--which encompass the bankruptcy court for that district--have exclusive jurisdiction over all of the property of the debtor as of the commencement of a case under title 11. **28 USC §1334(e)(Supp. 1997)**. Because the bankruptcy court addressed these issues at the time of the auction, the issues are barred by *res judicata*. In the *Matter of Brady*, **936 F. 2d 212, 215 (5th Cir.)**, the Fifth Circuit stated:

. . . an arrangement confirmed by a bankruptcy court has the effect of a judgment rendered by a district court. Any attempt by the parties to relitigate any of the issues that were raised or could have been raised therein is barred under the doctrine of *res judicata*.

The cause clearly arose from the bankruptcy proceedings and should have been brought before the bankruptcy court. The bankruptcy judge ruled on this cause when it was brought before him. It should not now be tried in another forum. The trial judge was not in error in granting the motion for

summary judgment. This was a matter that was for the exclusive jurisdiction of the bankruptcy court.

We therefore affirm the trial court's granting of summary judgment in this matter.

**THE JUDGMENT OF THE LEFLORE COUNTY CIRCUIT COURT OF SUMMARY JUDGMENT IS AFFIRMED. COSTS OF THIS APPEAL ARE ASSESSED TO APPELLANT.**

**BRIDGES, C.J., McMILLIN AND THOMAS, P.JJ., COLEMAN, HERRING, HINKEBEIN, KING, PAYNE, AND SOUTHWICK, JJ., CONCUR.**