

US Supreme Court Decision Regarding Retention of Property

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Generally, the filing of a bankruptcy petition automatically operates as a stay of efforts by entities to collect pre-petition debts outside the bankruptcy process, including any act to obtain possession of property of the estate or to exercise control over property of the estate. Section 362(a)(3) of the Bankruptcy Code.

The question before the Supreme Court of the United States in the case of City of Chicago v. Fulton et.al. decided on January 14, 2021, 592 U.S. ____ (2021), was whether an entity violates the Section 362 provision by retaining possession of debtor's property after a bankruptcy petition is filed. The facts of the case are straightforward: the City of Chicago impounded debtors' vehicles for failure to pay traffic tickets. Debtors filed a petition under Chapter 13 and requested that the City return their cars. The City refused and each debtor filed an adversary proceeding. The Bankruptcy Court concluded that the City's refusal violated the automatic stay. The Court of Appeals confirmed, and the Supreme Court granted certiorari to resolve a split in the appellate courts.

The Supreme Court decided that the mere retention of property of the estate, such a debtors' vehicles, impounded prior to the filing of a bankruptcy petition, does not violate the automatic stay. The Court reasoned that Section 362(a)(3) prohibits affirmative acts that would disturb the status quo of estate property as of the time the bankruptcy petition was filed. Therefore, the language of Section 362(a)(3) implies that something more than merely 'retaining power to exercise control' is required to violate the stay.

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