

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

FIRST STATE BANK BRANCH OF ALVA
STATE BANK & TRUST COMPANY,

Plaintiff,

v.

Case No. 20-1153-JWB

ANDREA and CLAY MCDANIEL, et al.,

Defendants.

MEMORANDUM AND ORDER

This matter comes before the court on Plaintiff's motion for partial summary judgment. (Doc. 26.) This action is one for breach of contract and replevin based on promissory notes and security instruments that were executed by Defendants Andrea and Clay McDaniel (the "McDaniels"). (Doc. 1.) The action was originally filed in state court but was removed to this court by Defendant United States of America, on behalf of the Farm Service Agency, which was named as a Defendant due to its interest in property that is subject to the security instruments.

On July 20, Plaintiff moved for partial summary judgment against the McDaniels. On August 10, the McDaniels notified the court that they had filed bankruptcy. (Doc. 32.) The filing of bankruptcy resulted in an automatic stay of this action. 18 U.S.C. § 362. No party has sought relief from the stay in bankruptcy court. Based on a review of the bankruptcy docket sheet, Chief Judge Somers has recently confirmed the McDaniels' Chapter 12 plan which requires payments under the plan over the next few years. *In re McDaniel*, Case No. 20-11003, Docs. 102, 146 (Bankr. D. Kan. Mar. 3, 2021). Because the bankruptcy case will remain pending until discharge or other closure of the case, this matter will be stayed.

Plaintiff's motion for partial summary judgment is DENIED, without prejudice to refileing in the event that Plaintiff is allowed to proceed on its claims after conclusion of the bankruptcy case.

IT IS SO ORDERED. Dated this 12th day of March 2021.

s/ John W. Broomes
JOHN W. BROOMES
UNITED STATES DISTRICT JUDGE