

City of Chicago v. Fulton, 141 S. Ct. 585 (2021)

- The City of Chicago impounded cars the vehicle owners failed to pay fines for motor vehicle infractions.
- The vehicle owners filed for bankruptcy under Chapter 13 and made a request to the City for turnover of the vehicles.
- The City refused to turnover the vehicles and the bankruptcy court held that the City's was in violation of 11 U.S.C. § 362(a).
- The district court and Seventh Circuit Court of Appeals affirmed the bankruptcy court's holding.

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- The Supreme Court granted certiorari to resolve the circuit split concerning whether an entity that *retains* property of the estate violates 11 U.S.C. § 362(a)(3).

- The Supreme Court reversed the Seventh Circuit's decision and held that "mere retention of estate property after the filing of a bankruptcy petition does not violate § 362(a)(3) . . . ."

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Creation of the estate:

- 11 U.S.C. § 541(a) provides that the filing of a bankruptcy petition creates an estate.
- The estate includes "all legal or equitable interests of the debtor in property." 11 U.S.C. § 541(a)(1).

Turnover of property of the estate:

- 11 U.S.C. § 542 provides that an entity in possession of property of the state "shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate."

Stay applicable to estate property:

- 11 U.S.C. § 362(a)(3) provides that the filing of a bankruptcy petition operates as a stay, applicable to all entities, of "any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate."

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Supreme Court's holding in *Fulton*:

- Simply filing a bankruptcy petition did not require the City of Chicago to immediately return the debtors' vehicles, and the debtors instead, were required to seek Section 542(a) turnover orders to recover their property.
- The Court reasoned that the language used in Section 362(a)(3) suggests that "merely retaining possession" of the debtors' property did not violate the automatic stay.
- Under Section 362(a)(3), the terms "stay," "act," and "exercise control" taken together, suggests that what is prohibited are the affirmative acts that would disturb the status quo of estate property ***as of the time of the petition date***. But this did not include the mere passive possession of property.

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Interplay of Section 362 and Section 542:

- Any ambiguity in the text of Section 362(a)(3) is resolved by Section 542.
- If a violation under Section 362(a)(3) included merely retaining possession of property, it would transform the statute into a blanket turnover provision, rendering Section 542 superfluous.
  - Section 362(a)(3) merely prohibits collection efforts ***outside*** of bankruptcy that would change status quo.
  - Section 542 works *within* bankruptcy process to draw far-flung estate property back into the hands of the debtor or trustee.
- Reading Section 362(a)(3) as a blanket turnover provision would contradict Section 542 and the exceptions to the turnover command.
  - §362(a)(3) would "require a creditor to do immediately what §542 specifically excuses."

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