FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL FOR THE FIRST CIRCUIT

BAP NO. PR 17-009

Bankruptcy Case No. 16-05120-ESL

ASOCIACIÓN DE TITULARES DE CONDOMINIO CASTILLO,
Debtor.

ASOCIACIÓN DE TITULARES DE CONDOMINIO CASTILLO,
Appellant,

v.

JOANNA DIMARCO, MONA DIMARCO, and
UNITED STATES OF AMERICA,
Appellees.

Appeal from the United States Bankruptcy Court
for the District of Puerto Rico
(Hon. Enrique S. Lamoutte, U.S. Bankruptcy Judge)

Before
Feeney, Harwood, and Fagone,
United States Bankruptcy Appellate Panel Judges.

Rafael A. González Valiente, Esq., on brief for Appellant.
Thomas E. Chandler, Esq., and Anna M. Baldwin, Esq.,
on brief for Appellee, United States of America.
Alvin M. Ramos Miranda, Esq., on brief for
Appellees, Joanna DiMarco and Mona DiMarco.

February 8, 2018

Harwood, U.S. Bankruptcy Appellate Panel Judge.

Asociación de Titulares de Condominio Castillo, d/b/a Castillo Condominium Association (the "Asociación"), appeals from the bankruptcy court's February 7, 2017 order dismissing the Asociación's chapter 7 petition ("Dismissal Order"), and the March 23, 2017 order denying reconsideration of the Dismissal Order ("Order Denying Reconsideration"). In dismissing the petition, the bankruptcy court ruled that the Asociación was ineligible to file a petition under § 109,[1] and lacked a legitimate bankruptcy purpose for the filing. For the reasons set forth below, we **DISMISS** the Asociación's untimely appeal of the Dismissal Order, and **AFFIRM** the Order Denying Reconsideration.

BACKGROUND

I. Pre-Petition Events

The Asociación is a condominium association originally comprised of all of the homeowners of the Castillo Condominium, a 22-unit condominium building located in San Juan, Puerto Rico. Prior to the petition date, the United States Department of Housing and Urban Development ("HUD") filed a "charge of discrimination" against the Asociación under the Fair Housing Act after the Asociación forced a condominium resident, Carlos Giménez Bianco, to vacate and sell his unit because he was keeping a dog in violation of the "no pets" bylaw. See Castillo Condominium Ass'n v. United States, 821 F.3d 92, 95 (1st Cir. 2016). Ultimately, the Secretary determined that the Asociación's refusal to allow Mr. Giménez to keep an "emotional

[1] Unless expressly stated otherwise, all references to "Bankruptcy Code" or to specific statutory sections are to the Bankruptcy Reform Act of 1978, as amended, 11 U.S.C. §§ 101, et seq. All references to "Bankruptcy Rule" are to the Federal Rules of Bankruptcy Procedure, and all references to "Rule" are to the Federal Rules of Civil Procedure.

support dog" in his unit as a reasonable accommodation for his disability violated the Fair Housing Act, awarded $20,000.00 in damages to Mr. Giménez, and assessed a civil penalty of $16,000.00 against the Asociación. Id. at 96. The Asociación appealed, and on May 2, 2016, the United States Court of Appeals for the First Circuit affirmed the Secretary's decision. See id.

II. The Bankruptcy Case

Shortly thereafter, in June 2016, the Asociación filed a voluntary chapter 7 petition,[2] and Wigberto Lugo Mender was appointed as trustee (the "Trustee"). In its original schedules of assets and liabilities, the Asociación reported $14,048.12 in assets and $104,515.00 in liabilities.[3] It listed both HUD and Mr. Giménez as unsecured creditors, as well as a third judgment creditor, Charles Fitzwilliams, with a $60,000.00 claim. It also listed appellees, Mona DiMarco and Joanna DiMarco (collectively, the "DiMarcos"), as unsecured creditors with contingent and/or disputed claims for "allege[d] damages" valued at $1.00 each.[4] Although the Asociación listed 17 unsecured creditors in total, the three judgment creditors (HUD, Mr. Giménez, and Mr. Fitzwilliams) accounted for the majority of its liabilities.

A. The Creditors' Meeting

At the first creditors' meeting on August 31, 2016, Gloria Rosado, president of the Asociación, testified on the Asociación's behalf. She explained that when the Asociación filed

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[2] It is undisputed that some, but not all, of the condominium owners authorized the filing of the bankruptcy petition.

[3] The Asociación's assets consisted primarily of cash, equipment, and accounts receivable.

[4] Mona DiMarco owns a condominium unit, and Joanna DiMarco is Mona's representative under a power of attorney. The Asociación contends it listed the DiMarcos in its schedules because they threatened lawsuits against the Asociación.

its bankruptcy petition, it ceased management of the property and the homeowners created a new homeowners' association to assume the day-to-day management responsibilities, including the collection of dues from the homeowners. Ms. Rosado also revealed that the new homeowners' association had paid or planned to pay all of the Asociación's debts, except for the amounts owed to the judgment creditors and the disputed claims of the DiMarcos. She stated that the intent behind the creation of the new association and the filing of the bankruptcy petition was to avoid collection of those judgments. The Trustee questioned Ms. Rosado about the Asociación's purpose in commencing the bankruptcy case, noting that it could not receive a discharge of its debts, and that the horizontal property regime applicable to the Castillo Condominium "exists perpetually," so it could not be liquidated. The Asociación's attorney responded on behalf of Ms. Rosado that he expected the Trustee to liquidate the Asociación's few assets and then the "entity will either cease to exist or will remain there inoperative."

Also at that creditors' meeting, the Trustee asked the Asociación to amend its schedules to accurately reflect its assets, liabilities, and financial condition, and to submit accounting information for the two years preceding the petition date. Accordingly, the Trustee continued the meeting to September 28, 2016. The record does not include a transcript of the continued creditors' meeting. Moreover, while the relevant entries on the bankruptcy court docket indicate that the Asociación amended its schedules and statement of affairs in November 2016, those amendments appear to have been rendered ineffective by the Asociación's failure to comply with Bankruptcy Rule 1008. See Docket Nos. 21, 22, 24, 25, and 26.[5] Therefore, the record does

[5] The Panel "may take judicial notice of the bankruptcy court's docket and imaged papers." U.S. Bank N.A. v. Blais (In re Blais), 512 B.R. 727, 730 n.2 (B.A.P. 1st Cir. 2014) (citation omitted).

not reflect what transpired at the meeting or whether the Asociación complied with the Trustee's requests.

B. Motion to Dismiss

On October 22, 2016, the DiMarcos filed a motion to dismiss the bankruptcy petition, asserting two basic grounds for dismissal under § 707(a) ("Motion to Dismiss").[6] First, they argued that there was cause to dismiss the case pursuant to § 707(a)(1) because the Asociación had "unjustifiably delay[ed] the proceedings" by failing to amend its schedules to reflect its true financial condition. Second, they alleged the Asociación used the bankruptcy filing for improper purposes, namely: (1) "as a subterfuge" to extinguish the horizontal property regime with respect to "selected creditors" without obtaining the consent of all of the owner members as required by Puerto Rico law; and (2) as a strategy to obtain the benefit of the automatic stay to avoid execution of the judgments against it. As to their "improper purposes" argument, the DiMarcos maintained that the Asociación was effectively operating as a debtor-in-possession, having created a new homeowners' association composed of the same owner members as its predecessor, and which continued to maintain the condominium's operations using the dues

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[6] Section 707(a) provides:

> The court may dismiss a case under this chapter only after notice and a hearing and only for cause, including–
> (1) unreasonable delay by the debtor that is prejudicial to creditors;
> (2) nonpayment of any fees or charges required under chapter 123 of title 28; and
> (3) failure of the debtor in a voluntary case to file, within fifteen days or such additional time as the court may allow after the filing of the petition commencing such case, the information required by paragraph (1) of section 521(a), but only on a motion by the United States trustee.

11 U.S.C. § 707(a).

originally paid to the Asociación. They argued that the Asociación created the new homeowners' association to "justify the selective treatment it provided to the creditors it . . . paid post-petition" while invoking the automatic stay as to "the [other] creditors it d[id] not wish to pay" by filing the chapter 7 petition. They also stressed that the main purpose of a chapter 7 case is to liquidate the assets of an entity. Under the Puerto Rico Condominium Act (the "Condominium Act"),[7] however, a condominium association can only be liquidated by extinguishing the horizontal property regime designation, which requires the consent of all the homeowners. As not all of the homeowners in the Asociación approved the filing of the petition, they argued, the Asociación is unable to liquidate in a chapter 7 bankruptcy case.

HUD filed a motion to join the Motion to Dismiss. In it, HUD asked the bankruptcy court to "take notice" of its joinder.

C. Opposition to Motion to Dismiss

The Asociación opposed the Motion to Dismiss, arguing, among other things, that: (1) it had amended its schedules and submitted the requested financial information; (2) the Trustee had not requested dismissal in connection with the Asociación's duty to provide financial information or made further requests for additional financial information; and (3) the DiMarcos could not "jump into the Trustee's shoes claiming . . . noncompliance" with the Trustee's request. The Asociación also argued that it was eligible to file for bankruptcy protection because the Condominium Act does not expressly prohibit it. According to the Asociación, although the Condominium Act prohibits the division of community property and subjects the property permanently to the horizontal property regime, it does not prohibit a homeowners'

[7] See P.R. Laws Ann. tit. 31, § 1291, et seq.

association from filing for bankruptcy relief, nor does it expressly require that all homeowners consent to the bankruptcy filing. According to the Asociación, the consent of a majority of homeowners was sufficient.

D. Hearing on Motion to Dismiss

On February 7, 2017, the bankruptcy court held a non-evidentiary hearing on the Motion to Dismiss. At the hearing, the DiMarcos' counsel again argued that the chapter 7 petition should be dismissed for three reasons: (1) the Asociación was not an individual and, therefore, was unable to discharge its debts; (2) the Asociación's estate could not be liquidated without dissolving the horizontal property regime, which requires the consent of all of the homeowners; and (3) the Asociación created a new homeowners' association which was essentially acting as a debtor-in-possession, and through this new entity, the Asociación had paid all of its debts, except those owed to the judgment creditors and the DiMarcos. The bankruptcy court, "go[ing] to the heart of the issue," expressed a two-fold concern: (1) "what were the reasons leading the [Asociación] to file for bankruptcy"; and (2) "who the debtor is . . . and if that debtor may be a debtor pursuant to [§] 109."

When the bankruptcy court questioned why the Asociación had filed for bankruptcy when it was not entitled to a discharge of its debts, the Asociación's counsel agreed that the Asociación filed for bankruptcy "to avoid payment of [ ] significant judgments issued against it." The Asociación's counsel explained:

> [The judgment creditors] were trying to attach everything, so that the Asociación could not operate, and could not perform its function [ ] which is to maintain the common areas, and [ ] pay all its debts for security, garbage collection, maintenance of the elevator, maintenance of the entrance, et cetera, et cetera, in the common areas. And they could not do so because the [judgment] creditors were attaching all of their . . . assets and all of their funds.

> The apartment owners know that the [judgment creditors] can go against them in their personal capacity, but at least now that this entity filed for bankruptcy and they created a new entity . . . , there's a new association that performs the duties of the old [Asociación]. Now they can continue because those funds are not attachable.

The bankruptcy court also queried whether the Asociación can be a debtor under § 109(b) when it is not an individual, corporation, or partnership.[8] In response, the Asociación's attorney argued that the definition of "person" in the Bankruptcy Code is non-exclusive, and, therefore, is not limited to individuals, corporations, and partnerships. The bankruptcy court disagreed, indicating it read § 109 differently. According to the court, under § 109(a), only a "person" may be a debtor, and *only* an individual, corporation, or partnership constitutes a "person" under the Bankruptcy Code's definition. The Asociación's attorney continued to insist, however, that the Asociación was "a legal entity" which was similar to a corporation and "nothing in the Code [ ] says that it may not file."

After hearing the parties' arguments, the bankruptcy court provided two grounds for dismissal, as follows:[9]

> After considering the motions before the Court, argument by counsel, [and] argument by the Chapter 7 trustee, the Court concludes that the Asociación may not be a debtor under Section 109 of the Bankruptcy Code, and has filed a petition to avoid payment to creditors holding judgment[s] against it, claims that [ ] would not be discharged in bankruptcy . . . . So the case is dismissed.

Thereafter, the bankruptcy court entered the Dismissal Order memorializing its ruling.

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[8] As discussed later, § 109(a) provides that "only a person . . . may be a debtor," and § 101(41) provides that "[t]he term 'person' includes individual, partnership, and corporation . . . ." 11 U.S.C. §§ 109(a), 101(41).

[9] At the hearing, none of the parties addressed the DiMarcos' allegations in the Motion to Dismiss of prejudicial delay to creditors for failure to supply financial information. Nor did the bankruptcy court address the issue or make any findings or rulings regarding those allegations.

E. Motion for Reconsideration

Fifteen days later, on February 22, 2017, the Asociación filed a motion requesting reconsideration of the Dismissal Order ("Motion for Reconsideration"), arguing the bankruptcy court had committed clear errors of fact and law. In the motion, the Asociación cited both Rules 59(e) and 60, without specifying the rule upon which it relied. The Asociación argued the bankruptcy court erred in ruling that it was ineligible to be a debtor under § 109 and dismissing the petition for the following reasons: (1) the definition of "person" under the Bankruptcy Code is non-exclusive and may include entities other than corporations, partnerships, and individuals, such as the Asociación; (2) other homeowners' associations in Puerto Rico have filed bankruptcy petitions; (3) neither the Bankruptcy Code nor Puerto Rico law prohibits a homeowners' association from filing for bankruptcy protection; (4) the inability of a homeowners' association to obtain a discharge is not grounds for dismissal as all non-individual debtors (including corporations, partnerships, and trusts) are barred from receiving a discharge; and (5) the Asociación's filing of the bankruptcy petition to stay the collection of judgments is not grounds for dismissal as the Asociación was insolvent and unable to pay its debts.

F. Oppositions to Motion for Reconsideration

Both the DiMarcos and HUD filed oppositions to the Motion for Reconsideration, arguing the Asociación had simply restated the arguments it previously made to the bankruptcy court. HUD also argued the motion contained misrepresentations regarding the Asociación's purpose for the bankruptcy filing and its alleged insolvency. Specifically, HUD contended the "sole reason" the Asociación filed the bankruptcy petition and formed a new homeowners' association "was to purposely deprive the former Asociaci[ó]n . . . of its revolving income from ownership dues, so as to fabricate an insolvency and file for bankruptcy, and attempt to free itself

of the judgment issued by HUD's Secretary." According to HUD, "the intent behind creating this 'new' condominium association[ ] [wa]s tantamount to fraud . . . ." "[The Asociación] became 'insolvent' not because the home owners declined to pay their home owner fees, but because [the Asociación] willfully and voluntarily declined to receive payment of the home owner[s'] dues to make [itself] insolvent." HUD claimed: "In reality, the debtor in this case had the revolving income that the current association has. It just decided not to receive any[ ]more payments, so as to become 'insolvent.'"

G. Order Denying Reconsideration

On March 23, 2017, the bankruptcy court, without a hearing, entered the Order Denying Reconsideration, "for the reasons stated in [the] response by the United States of America [HUD] (dkt. #52) and creditors [DiMarcos'] opposition (dkt. #53)." The bankruptcy court did not identify the statutory basis for its ruling or state whether it construed the Motion for Reconsideration as one under Rule 60(b) or 59(e).

On April 5, 2017, the Asociación filed a notice of appeal of the Dismissal Order and the Order Denying Reconsideration.

JURISDICTION

"A bankruptcy appellate panel is duty-bound to determine its jurisdiction before proceeding to the merits, even if the issue is not raised by the litigants." Encanto Rests., Inc. v. Aquino Vidal (In re Cousins Int'l Food, Corp.), 565 B.R. 450, 458 (B.A.P. 1st Cir. 2017) (citing Rivera Siaca v. DCC Operating, Inc. (In re Olympic Mills Corp.), 333 B.R. 540, 546-47 (B.A.P. 1st Cir. 2005)).

I. Timeliness

"It is well settled that the time limits established for filing a notice of appeal are mandatory and jurisdictional." Rodriguez v. Banco Popular de P.R. (In re Rodriguez Rodriguez), 516 B.R. 177, 182 (B.A.P. 1st Cir. 2014) (internal quotation marks omitted) (citing Yamaha Motor Corp. v. Perry Hollow Mgmt. Co. (In re Perry Hollow Mgmt. Co.), 297 F.3d 34, 38 (1st Cir. 2002); Balzotti v RAD Invs., LLC (In re Shepherds Hill Dev. Co.), 316 B.R. 406, 414 (B.A.P. 1st Cir. 2004)). If a notice of appeal is not timely filed, the Panel does not have jurisdiction over the appeal, and the appeal will fail. Id. (citing Abboud v. The Ground Round, Inc. (In re The Ground Round, Inc.), 335 B.R. 253, 258 (B.A.P. 1st Cir. 2005), aff'd, 482 F.3d 15 (1st Cir. 2007); In re Shepherds Hill Dev. Co., 316 B.R. at 414).

Bankruptcy Rule 8002(a) establishes a 14-day period to appeal bankruptcy court orders. See Fed. R. Bankr. P. 8002(a)(1). Pursuant to Bankruptcy Rule 8002(b)(1), however, certain motions will toll the appeal period if timely filed. See Fed. R. Bankr. P. 8002(b)(1).[10] A motion for reconsideration under Bankruptcy Rule 9023 or 9024, making Rules 59(e) and

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[10] Bankruptcy Rule 8002(b)(1) provides, in pertinent part:

> If a party timely files in the bankruptcy court any of the following motions, the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion:
>
> > (A) to amend or make additional findings under Rule 7052, whether or not granting the motion would alter the judgment;
> > (B) to alter or amend the judgment under Rule 9023;
> > (C) for a new trial under Rule 9023; or
> > (D) for relief under Rule 9024 if the motion is filed within 14 days after the judgment is entered.

Fed. R. Bankr. P. 8002(b)(1).

60(b) applicable to bankruptcy proceedings, is such a motion. See Fed. R. Bankr. P. 8002(b)(2) and (3). To be timely for purposes of Bankruptcy Rule 8002(b), a motion to alter the judgment under Bankruptcy Rule 9023, or a motion for relief from judgment under Bankruptcy Rule 9024, must be filed within 14 days after the bankruptcy court entered the judgment. See Fed. R. Bankr. P. 8002(b), 9023, 9024.

The bankruptcy court entered the Dismissal Order on February 7, 2017. The Asociación filed its Motion for Reconsideration 15 days later, on February 22, 2017. Because the Asociación did not file the Motion for Reconsideration within 14 days of the Dismissal Order, it did not toll the appeal period for that order.[11] See In re Rodriguez, 516 B.R. at 183 (holding that post-judgment motion filed more than 14 days after entry of dismissal order did not toll appeal period as to that order). Thus, the appeal period for the Dismissal Order expired on February 21, 2017, and the Asociación's notice of appeal, filed on April 5, 2017, was untimely as to that order. Therefore, the Panel does not have jurisdiction to review the Dismissal Order.

As to the Order Denying Reconsideration, the bankruptcy court entered that order on March 23, 2017, and the 14-day appeal period for that order expired on April 6, 2017. Thus, the Asociación's notice of appeal was timely as to the Order Denying Reconsideration.

II. Finality

"Pursuant to 28 U.S.C. §§ 158(a) and (b), the Panel may hear appeals from 'final judgments, orders, and decrees,' § 158(a)(1), or 'with leave of the court, from interlocutory orders and decrees,' § 158(a)(3)." Fleet Data Processing Corp. v. Branch (In re Bank of New

[11] The Dismissal Order's 14-day appeal period was not extended in this case by any provision of Bankruptcy Rule 9006(a).

Eng. Corp.), 218 B.R. 643, 645 (B.A.P. 1st Cir. 1998); see also Bullard v. Blue Hills Bank, 135 S. Ct. 1686, 1692, 1695 (2015) (discussing the Panel's jurisdiction to hear bankruptcy appeals under 28 U.S.C. § 158(a)). A bankruptcy court order denying a motion to alter a judgment under Rule 59(e) or to set aside a judgment under Rule 60(b) is a final order "if the underlying order is final and together the orders end the litigation on the merits." United States v. Monahan (In re Monahan), 497 B.R. 642, 646 (B.A.P. 1st Cir. 2013) (quoting Garcia Matos v. Oliveras Rivera (In re Garcia Matos), 478 B.R. 506, 511 (B.A.P. 1st Cir. 2012)). An order dismissing a chapter 7 bankruptcy petition is a final order. See Fernández Rosado v. Corredera Pablos (In re Fernández Rosado), No. PR 11-081, 2012 WL 2564375, at *2 (B.A.P. 1st Cir. June 29, 2012) (citation omitted). Therefore, the Order Denying Reconsideration is also final, and the Panel has jurisdiction to review it.

STANDARD OF REVIEW

The Panel "review[s] a bankruptcy court's findings of fact for clear error and its conclusions of law de novo." Jeffrey P. White & Assocs., P.C. v. Fessenden (In re Wheaton), 547 B.R. 490, 496 (B.A.P. 1st Cir. 2016) (citation omitted). "An order denying a reconsideration motion may normally be reversed only for a manifest abuse of discretion." Rodriguez Camacho v. Doral Fin. Corp. (In re Rodriguez Camacho), 361 B.R. 294, 299 (B.A.P. 1st Cir. 2007) (citing Mariani-Giron v. Acevedo-Ruiz, 945 F.2d 1, 3 (1st Cir. 1991)). A court abuses its discretion if it "'relies upon an improper factor, neglects a factor entitled to substantial weight, or considers the correct mix of factors but makes a clear error of judgment in weighing them.'" Mercado v. Combined Invs., LLC (In re Mercado), 523 B.R. 755, 761 (B.A.P. 1st Cir. 2015) (quoting Bacardí Int'l Ltd. v. V. Suárez & Co., 719 F.3d 1, 9 (1st Cir. 2013)). "Material" errors of law may constitute an abuse of discretion. See Charbono v. Sumski (In re Charbono),

790 F.3d 80, 85 (1st Cir. 2015) (citing Berliner v. Pappalardo (In re Sullivan), 674 F.3d 65, 68 (1st Cir. 2012)).

DISCUSSION

I. Applicable Law

A. Motion for Reconsideration

1. The Applicable Rule

A motion to reconsider may be treated either as a motion to alter or amend the judgment under Rule 59(e), made applicable by Bankruptcy Rule 9023, or as a motion for relief from judgment under Rule 60(b), made applicable by Bankruptcy Rule 9024. Although the Asociación mentioned both Rule 59(e) and Rule 60(b) in its Motion for Reconsideration, it did not identify under which Rule it was seeking relief, and the bankruptcy court did not identify which Rule it was applying. Because the Asociación did not file the motion within 14 days of entry of the Dismissal Order, however, the bankruptcy court should have treated it as one brought under Rule 60(b). See In re Rodriguez, 516 B.R. at 184; see also Fed. R. Bankr. P. 9023 (requiring motion to alter or amend a judgment under Rule 59(e) to be filed "no later than 14 days after entry of judgment").

Rule 60(b) provides in pertinent part:

> On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:
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> (1) mistake, inadvertence, surprise, or excusable neglect;
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> (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
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> (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

> (4) the judgment is void;
>
> (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
>
> (6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b).

"Bankruptcy courts have broad discretion in deciding motions for relief under Rule 60(b)." Roman v. Carrion (In re Rodriguez Gonzalez), 396 B.R. 790, 802 (B.A.P. 1st Cir. 2008) (citing Dávila-Álvarez v. Escuela de Medicina Universidad Central del Caribe, 257 F.3d 58, 63 (1st Cir. 2001)). "The denial of a Rule 60(b) motion should be reviewed with 'the understanding that relief under Rule 60(b) is extraordinary in nature and that motions invoking that rule should be granted sparingly.'" Id. (quoting Karak v. Bursaw Oil Corp., 288 F.3d 15, 19 (1st Cir. 2002), and citing U.S. Steel v. M. DeMatteo Constr. Co., 315 F.3d 43, 51 (1st Cir. 2002)).

In the Motion for Reconsideration, the Asociación did not identify the subsection of Rule 60(b) under which it was proceeding. Moreover, it did not argue the existence of mistake, inadvertence, or excusable neglect. It offered no newly discovered evidence and pointed to no fraud, misrepresentation, or misconduct. Rather, the Asociación argued that the bankruptcy court made several errors of law and/or fact. This, arguably, fell within subsection (6)—"any other reason that justifies relief."

2. The Rule 60(b)(6) Standard

Rule 60(b)(6) is a "catch-all provision" and the decision to grant or deny relief under this subsection is "inherently equitable in nature." Ungar v. Palestine Liberation Org., 599 F.3d 79,

83 (1st Cir. 2010) (citing United States v. One Star Class Sloop Sailboat, 458 F.3d 16, 25-26 & n.10 (1st Cir. 2006); Teamsters, Chauffeurs, Warehousemen & Helpers Union, Local No. 59 v. Superline Transp. Co., 953 F.2d 17, 19-20 (1st Cir. 1992)). "To balance the 'competing policies' of finality of judgments and resolving litigation on the merits, courts considering motions under Rule 60(b)(6) ordinarily examine four factors: (1) the motion's timeliness, (2) whether exceptional circumstances justify extraordinary relief, (3) whether the movant can show a potentially meritorious claim or defense, which, if proven, could bring her success at trial, and (4) the likelihood of unfair prejudice to the opposing party." Bouret-Echevarría v. Caribbean Aviation Maint. Corp., 784 F.3d 37, 43 (1st Cir. 2015) (citation omitted). In addition, "[a] court may invoke Rule 60(b)(6) to cure a manifest error of law if the error constitutes a 'reason that justifies relief' not covered by any other subsection of the rule." Lopez-Rosario v. Programa Seasonal Head Start, 140 F. Supp. 3d 214, 220 (D.P.R. 2015) (citation omitted).

B. Puerto Rico Condominium Act

As this appeal involves the question of whether a Puerto Rico condominium association is eligible to be a chapter 7 debtor, it is important to understand the characteristics of a condominium association under Puerto Rico law.

Condominium ownership in Puerto Rico is regulated by the Condominium Act, supra. The provisions of the Condominium Act "apply exclusively to the set of apartments and common elements whose single owner (or *all* owners, if there are more than one) expressly states, in a public title, the desire to submit the referenced property to the horizontal property regime . . . ,

and inscribes said title in the Registry of the Property."[12] P.R. Laws Ann. tit. 31, § 1291 (emphasis added). "The title that sets forth the horizontal property regime" must "clearly and precisely state the purpose and use of all areas comprised by the property, and, unless otherwise authorized [by statute], once said purpose and use have been established, they can only be changed by means of the *unanimous consent of the owners*." Id. (emphasis added).

In Puerto Rico, a condominium association is recognized as a legal entity and is the governing body of the administration of any property subjected to the horizontal property regime. See P.R. Laws Ann. tit. 31, § 1293b. The condominium association constitutes the "supreme authority over the administration of the building submitted to the horizontal property regime[.]" Id. It consists of "all the unit owners," has "its own legal personality," and "answer[s] for its responsibilities." Id. The condominium association "shall not assume the entity of a corporation or partnership." Id. It has the duty to elect an administrator, who may be a person that is not a member of the community of unit owners. Id. at § 1293b(a)(2). It is,

[12] The term "condominium" or "horizontal property regime" generally connotes a system of exclusive ownership of individual units in multiple-unit buildings. See Arce Preston v. Caribbean Home Constr. Corp., 8 P.R. Offic. Trans. 231, 231 (1978). It is a form of real property ownership that occurs when individual units may be owned by one or more persons and, appurtenant to each unit, there is an undivided share in common property that is usually referred to as common elements, such as foundations, main walls, roofs, halls, lobbies, stairways, and entrances. Id. at 238-39 (1978). The Puerto Rico statute references a "horizontal property regime," because it provides a method of subdividing the space in a building into horizontal strata or layers. Donna S. Bennett, Condominium Homeownership in the United States, 103 Law Libr. J. 249, 253-54 (Spring, 2011). Each layer represents a floor in the building that is then subdivided vertically into one or more apartment spaces or units. Id. Although a horizontal property regime has some of the characteristics of a partnership, cooperative, and corporation, it is a special type of property ownership, and its creation, operation, and termination is governed by special rules which are only applicable to this kind of ownership.

however, the board of directors that "constitutes the executive organ of the community of co-owners[.]" Id. at § 1293b-4. The Condominium Act outlines the duties and powers of a condominium association and the board of directors. See id. at § 1293b, § 1293b-4.

C. Cause for Dismissal under § 707(a)

The standard for dismissing a chapter 7 case in which the debtor is not an individual is set out in § 707(a). See In re Focus Capital, Inc., 504 B.R. 296, 302 (Bankr. D.N.H. 2014). That section provides that a court may dismiss a chapter 7 case, "only after notice and a hearing and only for cause." 11 U.S.C. § 707(a). Section 707 does not define "cause," but instead provides three examples—the debtor's unreasonable delay of the proceedings that is prejudicial to creditors, failure to pay required fees, or untimely filing of schedules and financial statements. See 11 U.S.C. § 707(a)(1)-(3). Courts have noted, however, that these examples are illustrative, not exhaustive, and have recognized other grounds for the dismissal of a chapter 7 petition. See, e.g., Piazza v. Nueterra Healthcare Physical Therapy, LLC (In re Piazza), 719 F.3d 1253, 1261 (11th Cir. 2013) ("[T]he three enumerated examples [of cause] in § 707(a) are illustrative, not exhaustive."). One such cause is the ineligibility of an entity for debtor status. In re Cannon, 376 B.R. 847, 849 (Bankr. M.D. Tenn. 2006) ("[I]neligibility to be a debtor is cause to dismiss a bankruptcy case under all three Chapters [7, 11, 13].") (citing 11 U.S.C. §§ 707(a), 1307(c), and 1112(b)); see also OneUnited Bank v. Charles St. African Methodist Episcopal Church of Bos., 501 B.R. 1, 7 (D. Mass. 2013) (stating ineligibility for debtor status is cause for dismissal under analogous section for chapter 11 cases, § 1112(b)), aff'g, In re Charles St. African Methodist Episcopal Church of Bos., 478 B.R. 73 (Bankr. D. Mass. 2012). Another such cause for dismissal under § 707(a) is lack of a legitimate bankruptcy purpose. See Kelley v. Cypress Fin. Trading Co. (In re Cypress Fin. Trading Co.), 620 F. App'x 287, 289 (5th Cir. 2015) (citation

omitted); M.P. Constr. Co. v. Wong (In re M.P. Constr. Co.), No. CC-12-1306-DKiPa, 2013 WL 829117, at *5 (B.A.P. 9th Cir. Mar. 4, 2013).

II. Analysis

The Asociación essentially raises two arguments in this appeal: (1) the bankruptcy court erred in ruling that a condominium association is not eligible to file a bankruptcy petition under § 109(a); and (2) the bankruptcy court erred in determining that the Asociación filed the petition "to avoid payment to creditors holding judgment[s] against it, claims that would not be discharged in bankruptcy . . . ." The DiMarcos counter that the bankruptcy court did not err in dismissing the petition because a condominium association does not meet the statutory definition of a person under § 101(41), the chapter 7 filing was not authorized by the Condominium Act, and the Asociación filed the petition to "selectively avoid payment of [certain] debts."[13] HUD contends that the bankruptcy court properly dismissed the petition because the Asociación's filing was an "abuse" of "the chapter 7 bankruptcy process."

As discussed below, we conclude the bankruptcy court committed legal error when it applied a narrow, exclusive interpretation of the term "person" set forth in § 101(41) in determining that the Asociación was not eligible to be a debtor under § 109. However, the bankruptcy court also dismissed the petition on an alternative ground—the lack of a legitimate bankruptcy purpose for the filing. We conclude that the bankruptcy court's alternative ruling

[13] While the DiMarcos alleged the presence of unreasonable delay under § 707(a)(1) in their Motion to Dismiss, they did not pursue this argument at the hearing, in the Motion for Reconsideration, or in their appellate brief. Therefore, this argument has been waived. See Blacksmith Invs., Inc. v. Woodford (In re Woodford), 418 B.R. 644, 646 n.1 (B.A.P. 1st Cir. 2009) (citing and following First Circuit cases holding failure to identify or brief issues constituted waiver).

for dismissal was not based on legal error or clearly erroneous findings and, therefore, the court did not abuse its discretion in denying the Motion for Reconsideration.

A. Eligibility to File a Bankruptcy Petition

The Bankruptcy Code provides that "[a] voluntary case . . . is commenced by the filing . . . of a petition . . . by an entity that may be a debtor . . . ." 11 U.S.C. § 301(a). Section 109(a) states that a "debtor" is "a *person* that resides or has a domicile, a place of business, or property in the United States, or a municipality[.]" See 11 U.S.C. § 109(a) (emphasis added). Although the language of § 109(a) is broad, § 109(b) enumerates certain entities that are excluded from being debtors under the Bankruptcy Code.[14] Because the Asociación is not an entity of the types specified in § 109(b), it is eligible to file a bankruptcy petition if it is a

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[14] Section 109(b) provides:

> A person may be a debtor under chapter 7 of this title only if such person is not—
> (1) a railroad;
> (2) a domestic insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, a New Markets Venture Capital company as defined in section 351 of the Small Business Investment Act of 1958, a small business investment company licensed by the Small Business Administration under section 301 of the Small Business Investment Act of 1958, credit union, or industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act, except that an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or
> (3)(A) a foreign insurance company, engaged in such business in the United States; or
> (B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency . . . in the United States.

11 U.S.C. § 109(b). The "homestead association" referred to in § 109(b)(2)'s exclusion does not refer to a condominium homeowners' association, but rather to a type of lender. There is nothing in the record to indicate that the bankruptcy court or any of the parties thought that the Asociación might be ineligible to be a debtor on that basis. See generally Frank R. Kennedy, The Commencement of a Case Under the New Bankruptcy Code, 36 Wash. & Lee L. Rev. 977, 988 n.56 (1979), available at http://scholarlycommons.law.wlu.edu/ wlulr/vol36/iss4/2.

"person" within the meaning of the Bankruptcy Code. See Cash Currency Exch., Inc. v. Shine (In re Cash Currency Exch, Inc.), 762 F.2d 542, 552 (7th Cir. 1985) ("The general rule of statutory construction is that the enumeration of specific exclusions from the operation of a statute is an indication that the statute should apply to all cases not specifically excluded.").

Section 101(41) provides that "[t]he term 'person' *includes* individual, partnership, and corporation[.]" 11 U.S.C. § 101(41) (emphasis added). The bankruptcy court interpreted § 101(41) to mean that *only* those entities specifically identified in § 101(41)—individuals, partnerships, and corporations—are "persons" under the Bankruptcy Code that are eligible for bankruptcy relief. And, the court concluded, because the Asociación was not an individual, partnership, or corporation, it was ineligible to be a debtor.

The First Circuit has not expressly addressed whether a condominium association constitutes a "person" under § 101(41) or whether it may be a debtor under § 109(a). Therefore, we turn to other sections of the Bankruptcy Code for guidance.

Under the Bankruptcy Code's rules of construction, the term "includes" is "not limiting," 11 U.S.C. § 102(3); therefore, a potential debtor may be a "person" even if it does not fall into any of the *per se* definitions under § 101(41). Several courts in the First Circuit have acknowledged that use of the word "includes" for definitions such as those contained in § 101 means that the definitions are "expansive" and "not exhaustive." See, e.g., In re Charles St. African Methodist Episcopal Church of Bos., 478 B.R. at 83; Lugo-Mender v. Gov't Commc'ns, Inc. (In re El Comandante Mgmt. Co.), 404 B.R. 47, 56 (D.P.R. 2008) (recognizing that use of the word "includes" in the definition of "insider" evidences an "expansive view of the term"); Tomsic v. Sales Consultants of Bos., Inc. (In re Salience Assocs., Inc.), 371 B.R. 578, 585 (Bankr. D. Mass. 2007) (same). Courts in other jurisdictions have similarly held, including in

the context of § 101(41). See, e.g., Redmond v. CJD & Assocs., LLC (In re Brooke Corp.), 506 B.R. 560, 566 (Bankr. D. Kan. 2014) (applying expansive definition of "person"); In re Oversight & Control Comm'n of Avánzit, S.A., 385 B.R. 525, 540 (Bankr. S.D.N.Y. 2008) (stating that for bankruptcy purposes, the use of the word "includes" in the definition of "person" means the definition is not limiting and "encompasses 'persons' that do not fit squarely within the examples," including oversight commission); In re ICLNDS Notes Acquisition, LLC, 259 B.R. 289, 292 (Bankr. N.D. Ohio 2001) (holding that because the term "includes" is not limiting, "individuals, corporations and partnerships are clearly eligible for relief, but other similar entities are as well," including a limited liability company).[15] Of particular import here, one court of appeals held that the Bankruptcy Code utilizes the word "includes" in a "non-limiting capacity" and, therefore, the term "person" in § 101(41) "potentially includes an even broader range of entities." Ad Hoc Grp. of Vitro Noteholders v. Vitro S.A.B. de C.V. (In re Vitro S.A.B. de C.V.), 701 F.3d 1031, 1046 n.14 (5th Cir. 2012). Another court ruled: "In view of the use of the non-exclusive term, "includes" [in the definition of "person" in § 101(41)], and the absence of specific exclusion, the Court concludes that the Bankruptcy Code's qualification criteria are sufficiently liberal to permit an inchoate or *de facto* limited liability company . . . to be a debtor . . . ." In re 4 Whip, LLC, 332 B.R. 670, 672 (Bankr. D. Conn. 2005).

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[15] See also Collier on Bankruptcy ¶ 109.02[1] (Richard Levin & Henry J. Sommer eds., 16th ed. 2017) ("Because the definition of 'person' uses the word 'includes,' it is not limited to the types of entities listed in the definition and extends to other types of entities, such as unincorporated associations.") (citations omitted); Id. at ¶ 102.04 ("[B]ecause of the use of the word 'including" before the three examples [in the statutory definition of 'person'], those examples are nonexclusive and other, similar entities can also be covered by the definition, and thus be eligible to be debtors under the Code.") (citations omitted).

Although courts have not clearly articulated what criteria they should consider when determining if an entity constitutes a "person" for purposes of § 109(a), they usually examine the nature of the entity and whether it has characteristics which are similar to a partnership or corporation. See id. (holding that inchoate or *de facto* limited liability company is eligible to be a debtor "so long as that entity had a *bona fide* business existence prior to the Petition Date"); In re ICLNDS Notes Acquisition, LLC, 259 B.R. at 293 ("As corporations and partnerships are eligible to be debtors, and because [a limited liability company] draws its character from both of those forms of doing business, [a limited liability company] is similar enough to those entities that it also comes within the definition of 'person' and is eligible for protection under the Code."); see also In re QDN, LLC, 363 F. App'x 873, 876 n.4 (3d Cir. 2010) ("Limited liability companies are eligible to file bankruptcy petitions because they are sufficiently similar to a corporation and limit responsibility for the debts to the capital subscribed.") (citations omitted). As one court in this circuit stated: "The determinative consideration . . . is not the title of the entity but rather what the debtor actually is and the purpose it has been created to carry out." OneUnited Bank, 501 B.R. at 7 (citation omitted) (internal quotations omitted).[16]

Here, although the Asociación did not fall into any of the *per se* definitions of a person under § 101(41), this was not dispositive on the issue of its eligibility to be a debtor under the Bankruptcy Code. The court should have considered whether the legal characteristics of the Asociación were sufficiently analogous to those of a partnership or corporation as to constitute a "person" under the Bankruptcy Code. Moreover, as the Asociación pointed out, although it is

[16] The OneUnited Bank court went on to conclude that nominee trusts were ineligible to be debtors because they did not "[d]o any business." 501 B.R. at 7 (citations omitted).

rare, other unincorporated condominium associations have successfully filed for bankruptcy protection in Puerto Rico and other jurisdictions.[17] See, e.g., In re Asociacion de Residentes de Venus Garden, Case No. 03-13524-SEK (Bankr. D.P.R.) (chapter 7); In re Asociacion de Propietarios Condominio Radio Centro, Case No. 16-03291-EAG (Bankr. D.P.R.) (chapter 11); In re Asociacion De Comerciantes Del Viejo San Juan, No. 98-1815, 1999 U.S. App. LEXIS 5923 (1st Cir. Mar. 19 1999) (chapter 11); In re Council of Unit Owners of the 100 Harborview Drive Condo., 572 B.R. 131 (Bankr. D. Md. 2017) (considering, without analysis of the eligibility question, confirmation of proposed plan of reorganization of unincorporated condominium association).

Based on the foregoing, we conclude the bankruptcy court committed legal error when applying a narrow, exclusive reading of § 101(41), without any supporting legal authority, to determine the Asociación was not a "person" and, therefore, was ineligible to be a debtor. If this were the bankruptcy court's sole reason for dismissal, its denial of reconsideration would

[17] "Condominium associations rarely file for bankruptcy because state laws strictly regulate . . . the formation, operation and management practices of condominium associations and their board of directors." J. Hirby, What Happens When a Condominium Complex Goes Bankrupt?, The Law Dictionary, available at http://thelawdictionary.org/ article/ what-happens-when-a-condominium-complex-goes-bankrupt. When condominium associations do file for bankruptcy protection, they usually seek relief under chapter 11 rather than chapter 7 as condominium associations do not own the condominium property and usually have few physical assets. Id. Moreover, issues regarding a condominium association's eligibility to be a debtor under § 109 are less likely to arise in other jurisdictions where condominium associations are often incorporated, so that they fall squarely within one of the examples (corporation) of a "person" set forth in § 101(41). See, e.g., In re Boca Vill. Ass'n, Inc., 422 B.R. 318, 324 (Bankr. S.D. Fla. 2009).

constitute an abuse of discretion. We must, however, consider the bankruptcy court's additional ground for dismissal under § 707(a)—the lack of a legitimate bankruptcy purpose for the filing.

B. Lack of a Valid Bankruptcy Purpose

Although the bankruptcy court erred in holding that the Asociación was per se ineligible to be a debtor under §§ 109 and 101(41), we may still affirm the Order Denying Reconsideration if we conclude the bankruptcy court did not commit legal or factual error in determining that there was another cause for dismissal under § 707(a).

As noted above, both the DiMarcos and HUD argued that cause existed under § 707(a) to dismiss the case because the Asociación filed the bankruptcy petition for improper purposes. The DiMarcos argued that the Asociación filed "as a subterfuge" to extinguish the horizontal property regime without obtaining the consent of all homeowners, and to avoid execution of the judgments against it. HUD asserted that the "sole reason" the Asociación formed a new homeowners' association "was to purposely deprive" the Asociación of its income from ownership dues, in order to "fabricate an insolvency" so that it could file for bankruptcy and "attempt to free itself" of the judgments against it. According to HUD, this scheme was "tantamount to fraud."[18] The bankruptcy court considered the Asociación's pre- and post-filing conduct and examined why the Asociación filed for bankruptcy protection, determining, as a ground for dismissal, that the Asociación filed the petition solely to avoid efforts by judgment

[18] Although these arguments sounded in bad faith, neither the parties nor the bankruptcy court addressed whether bad faith constitutes "cause" for dismissal of a chapter 7 petition under § 707(a). There is currently a circuit split on this issue. See In re Piazza, 719 F.3d at 1260-61 (addressing the circuit split and citing cases). There is no controlling precedent from the First Circuit and courts within the circuit are divided. See In re Fernández Rosado, No. 07-05871, 2010 WL 1005190, at *5 (Bankr. D.P.R. March 15, 2010) (comparing cases in the First Circuit). We need not opine on the "bad faith" issue, as the parties did not expressly raise it and the bankruptcy court did not address it.

creditors to execute on their judgments, rather than as a "tool to handle its debts" or to obtain a discharge—i.e., for lack of a legitimate bankruptcy purpose.

Courts have held that "[f]iling to ward off collection efforts . . . is not, in and of itself, sufficient to establish cause under § 707(a)." In re Chovev, 559 B.R. 339, 347 (Bankr. E.D.N.Y. 2016); see also In re Uche, 555 B.R. 57, 62 (Bankr. M.D. Fla. 2016) ("[I]f filing bankruptcy to avoid the payment of a debt was cause for dismissal, no debtor would ever be able [to] file a bankruptcy case."). However, "[w]hen a bankruptcy serves no purpose, results in no benefit for its creditors or the debtor, and only delays litigation already pending against the debtor, there is 'cause' to dismiss the case." In re Cypress Fin. Trading Co., 620 F. App'x at 289; see also Krueger v. Torres (In re Krueger), 812 F.3d 365, 370-71 (5th Cir. 2016) (stating that cause for dismissal under § 707(a) can include "petitions that simply serve no legitimate bankruptcy purpose") (citations omitted); In re Levesque, No. 17-10107, 2017 Bankr. LEXIS 1755 (Bankr. D. Me. June 23, 2017) (dismissing chapter 7 petition, stating there was nothing to "suggest the existence of any valid bankruptcy purpose for th[e] case other than the receipt of a discharge (which, for [various reasons], will not be forthcoming."); In re Asset Resolution Corp., 552 B.R. 856, 863 (Bankr. D. Kan. 2016) (dismissing case for cause under § 707(a) because debtor "[wa]s not pursuing a fundamental Chapter 7 bankruptcy purpose—liquidating assets for the benefit of creditors"); In re M.P. Constr. Co., 2013 WL 829117, at *4 (considering whether bankruptcy court abused its discretion when it dismissed case for cause under § 707(a) because it was filed "without a legitimate bankruptcy purpose."). "The ultimate question [is] whether the petition was filed with the intent and desire to obtain the relief that is available under a particular chapter of the Bankruptcy Code, through the means that Congress has specified, or whether the

debtor is pursuing some other goal." In re Kane & Kane, 406 B.R. 163, 168 (Bankr. S.D. Fla. 2009) (quoting In re Tallman, 397 B.R. 451, 456 (Bankr. N.D. Ind. 2008)). "In making this determination, courts look at the totality of the circumstances leading up to the filing of the case including the debtor's motive in filing, the purposes which will be achieved in the case, and whether the debtor's motive and purposes are consistent with the purpose of Chapter 7." In re Boca Vill. Ass'n, Inc., 422 B.R. at 324 (citations omitted).

"It is generally understood that Chapter 7 serves the twin purposes of providing the honest but unfortunate debtor with a fresh start while providing for the orderly liquidation of the debtor's non-exempt assets for the benefit of all creditors." Id. "However, the objective of providing the honest but unfortunate debtor with a fresh start is not served in [a non-individual] Chapter 7 case because [such] debtors are ineligible for discharge." Id. (citing 11 U.S.C. § 727(a)(1)). Because a non-individual debtor is ineligible for discharge, the only purpose served in a chapter 7 case for a non-individual is the fair and orderly liquidation of assets for creditors. Id.

Here, there is no hope of discharge or a fresh start, because the Asociación is not an individual and, therefore, is not eligible for a discharge. See 11 U.S.C. § 727(a)(1) ("The court shall grant the debtor a discharge, unless . . . the debtor is not an individual"). Moreover, there is no prospect of a fair and orderly liquidation of assets for creditors. It is undisputed that there are no significant assets to marshal or liquidate, and the Asociación admits it did not file the chapter 7 in order to maximize value for creditors; rather it filed the chapter 7 petition to avoid payment to certain judgment creditors while paying all of its other creditors through a new homeowners' association, using income from homeowners' dues. Given the little property it has, the Asociación does not need a bankruptcy forum to liquidate and distribute its assets or

wind down its affairs. "Without any conceivable benefit to the debtor or creditors, a bankruptcy loses its *raison d'etre*." In re Cypress Fin. Trading Co., 620 F. App'x at 289.

Moreover, it seems that under Puerto Rico law, the Asociación is unable to liquidate in this chapter 7 case, as liquidation would entail the dissolution of the horizontal property regime, which is a "change" to the "purpose and use" of the horizontal property regime requiring the "unanimous consent" of all of the unit holders. See P.R. Laws Ann. tit. 31, § 1291. It is undisputed that not all of the homeowners consented to the filing of the bankruptcy petition; therefore the Asociación lacks the unanimous consent of all of the unit holders to liquidate. Under these circumstances, there is no legal or factual basis upon which to keep the Asociación in a chapter 7 proceeding.

Based on the foregoing, we conclude that the bankruptcy court did not commit legal or factual error in concluding that there was no legitimate bankruptcy purpose to be served and dismissing the chapter 7 petition for cause under § 707(a). As such, the bankruptcy court did not abuse its discretion in denying reconsideration of the Dismissal Order.

CONCLUSION

For the reasons set forth above, we **DISMISS** the Asociación's appeal of the Dismissal Order as untimely. As to the Order Denying Reconsideration, we conclude the Asociación did not satisfy the standard under Rule 60(b) and, therefore, the bankruptcy court did not abuse its discretion in denying reconsideration of the Dismissal Order. Thus, we **AFFIRM** the Order Denying Reconsideration.