

In re: MAYKEL CORZO, Debtor

MICHAEL R.BAKST, Trustee

Plaintiff,

v.

MARIA LUIZA CORZO,

Defendant

**Case No.: 07-14655-BKC-PGH**  
**ADV.NO.:08-1431-BKC-PGH-A**

A warranty deed, listed in public records, named the Debtor and the Defendant as co-owners of real property. The Debtor failed to list the real property on Schedule A. The Trustee filed a Motion for Partial Summary Judgment as to three counts of a five count complaint in which the Trustee sought, among other things, a determination that the estate owned a one-half interest in the real property despite the Defendant's claim to an unrecorded equitable interest in the real property as the beneficiary of a resulting trust. The Court examined the relationship between §§ 544(a)(3) and 541(d) of the Bankruptcy Code and found that § 541(d) does not inhibit the Trustee's power to bring property into the estate through § 544 (a)(3). The Court noted that although most case law pertaining to the relationship between §§ 544(a)(3) and 541(d) dealt with constructive rather than resulting trusts, the result was unchanged since the differences between a constructive and resulting trust were not an issue with regards to §544(a). Furthermore, Florida Statute § 695.01 fails to differentiate between a constructive and resulting trust with respect to a bona fide purchaser's real property rights. Thus, the Court granted the Trustee's Motion in part.