UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

In re Licata

No. 15-3172-bk (2d Cir. Sept. 2, 2016) (summary order) · No. 15-3172-bk · Decided September 2, 2016

SUMMARY

The United States Court of Appeals for the Second Circuit affirmed the district court's dismissal of James J. Licata's appeal from a bankruptcy court order approving a settlement of disputed claims. The court held that Licata lacked standing because he failed to show a reasonable possibility of a surplus after payment of the estate's unsecured claims. The court concluded that the bankruptcy court did not clearly err in finding that the evidence offered to establish the value of the assets was insufficient.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	John M. Walker, Jr.; Denny Chin; Raymond J. Lohier, Jr.
JURISDICTION	Federal
DECIDED	September 2, 2016
DOCKET	15-3172-bk
DISPOSITION	affirmed
PROCEDURAL POSTURE	Debtor appealed the district court's dismissal of his appeal from a bankruptcy court order approving a settlement of disputed claims.
STANDARD OF REVIEW	The district court's rulings while acting as an appellate court in a bankruptcy case are reviewed plenarily. The bankruptcy court's factual findings are independently reviewed for clear error, and its legal conclusions are reviewed de novo. A bankruptcy court's finding that there is no reasonable possibility of a surplus is a factual finding reviewed for clear error; the bankruptcy court's evidentiary determination concerning the valuation letter was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	James J. Licata, Debtor-Appellant v. Richard M. Coan, Chapter 7 Trustee, Ronald I. Chorches, Chapter 7 Trustee

TOPICS

chapter 7 · standing · appellate procedure · standard of review · bankruptcy

PRACTICE AREAS

bankruptcy · appellate procedure · civil procedure

QUESTIONS PRESENTED

1. Whether a Chapter 7 debtor demonstrated standing to challenge a bankruptcy settlement by showing a reasonable possibility of a surplus after payment of creditors' claims.
2. Whether the bankruptcy court clearly erred in finding no reasonable possibility of a surplus and abused its discretion in assigning insignificant probative value to the debtor's valuation letter.

HOLDINGS

1. A Chapter 7 debtor may object to a bankruptcy disposition affecting the estate only by demonstrating at least a reasonable possibility of a surplus after all creditors' claims are paid. Licata failed to make that showing and therefore lacked standing to challenge the settlement.
2. The bankruptcy court did not clearly err in finding no reasonable possibility of a surplus and did not abuse its discretion in finding that Licata's valuation letter was vague and of insignificant probative value.

KEY QUOTATIONS

> *"A Chapter 7 debtor has standing to object to a sale of the assets "only if there could be a surplus after all creditors' claims are paid.""* (2)

> *"To prove a reasonable possibility of a surplus, Licata relied on a one-page letter submitted to the bankruptcy court by a New Jersey real-estate firm, which opined that the disputed assets had a value in excess of $1 billion."* (3)

> *"The bankruptcy court did not abuse its discretion in concluding that the letter "was both vague and of insignificant probative value.""* (3)

FACTUAL BACKGROUND

Licata, a Chapter 7 debtor, challenged a settlement involving disputed claims and asserted that the estate might generate a surplus. He relied primarily on an unsworn, one-page letter from a New Jersey real-estate firm valuing disputed assets at more than $1 billion. That valuation conflicted with substantially lower offers received at three auctions between 2006 and 2013, including a $12.6 million option transaction that never closed, while the estate faced at least $120 million in unsecured claims.

PROCEDURAL HISTORY

The United States Bankruptcy Court for the District of Connecticut approved a settlement of disputed claims and found that Licata lacked standing to challenge it because he failed to demonstrate a pecuniary interest in the estate. The district court dismissed Licata's appeal, holding that the bankruptcy court's findings were not clearly erroneous and that Licata lacked standing. The Second Circuit affirmed the district court.

DISPOSITION

affirmed

CASES CITED

- In re Stoltz, 315 F.3d 80, 87 (2d Cir. 2002)
- In re Quebecor World (USA) Inc., 719 F.3d 94, 97 (2d Cir. 2013)
- In re 60 East 80th St. Equities, Inc., 218 F.3d 109, 115-16 (2d Cir. 2000)
