UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

In re Hanger v. Bank of America, National Trust and Savings Association

196 F.3d 1292 (9th Cir. 1999) · No. 98-55089 · Decided November 23, 1999

SUMMARY

The Ninth Circuit affirmed the Bankruptcy Appellate Panel's decision holding that Bank of America retained a secured claim of $33,183. The court concluded that the BAP correctly applied Bankruptcy Code section 522(f)(2)(A), which provides the statutory calculation for determining whether a lien is avoidable.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Betty B. Fletcher; Harry Pregerson; Charles R. Weiner
JURISDICTION	Federal
DECIDED	November 23, 1999
DOCKET	98-55089
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a decision of the Ninth Circuit Bankruptcy Appellate Panel affirming the bank's secured claim.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Dale E. Hanger, Sandra S. Hanger v. Bank of America, National Trust and Savings Association

TOPICS

bankruptcy · statutory interpretation · appellate procedure

PRACTICE AREAS

Bankruptcy

QUESTIONS PRESENTED

1. Whether the Bankruptcy Appellate Panel correctly applied 11 U.S.C. § 522(f)(2)(A) in determining that Bank of America retained a secured claim of $33,183.

HOLDINGS

1. The Bankruptcy Appellate Panel correctly applied 11 U.S.C. § 522(f)(2)(A), and Bank of America retained a secured claim in the amount of $33,183.

KEY QUOTATIONS

> *"As that decision correctly applied Bankruptcy Code section 522(f)(2)(A), 11 U.S.C. S 522(f)(2)(A), which provides a statutory calculation to determine when a lien is avoidable, the decision of the BAP is AFFIRMED."* (196 F.3d at 1292)

FACTUAL BACKGROUND

Dale and Sandra Hanger were debtors in bankruptcy. Bank of America asserted a secured claim, and the debtors challenged the claim under Bankruptcy Code section 522(f)(2)(A), which governs the calculation for determining whether a lien is avoidable. The Bankruptcy Appellate Panel concluded that the bank retained a secured claim in the amount of $33,183.

PROCEDURAL HISTORY

The Ninth Circuit Bankruptcy Appellate Panel held in a published opinion that Bank of America retained a secured claim of $33,183. The debtors appealed to the Ninth Circuit, which affirmed the BAP's decision.

DISPOSITION

affirmed

CASES CITED

- In re Hanger, 217 B.R. 592 (9th Cir. BAP 1997)

OPINION

PER CURIAM.

196 F.3d 1292 (9th Cir. 1999) In re: DALE E. HANGER; SANDRA S. HANGER, Debtors, DALE E. HANGER; SANDRA S. HANGER, Appellants,v.BANK OF AMERICA, NATIONAL TRUST AND SAVINGS ASSOCIATION, Appellee. No. 98-55089 UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT Argued and Submitted September 15, 1999--Pasadena, California Filed November 23, 1999 1 Appeal from the Ninth Circuit Bankruptcy Appellate Panel D.C.

No. CC-97-01179-OlHarJo 2 Ollason, Hargrove and Jones, Judges, Presiding 3 Before: Betty B. Fletcher and Harry Pregerson, Circuit Judges, and Charles R. Weiner,1 Senior District Judge. 4 COUNSEL: Joseph A. Weber, Santa Ana, California; Fritz J. Firman, and Brian W. Baron, Law Offices of Joseph A. Weiner, Costa Mesa, California, for appellants Dale E. Hanger and Sandra S. Hanger.

Larry G. Ivanjack, Gary Tokumori, Ivanjack and Lambirth, Los Angeles, California, for appellee Bank of America National Trust and Savings Association. ORDER 5 The Bankruptcy Appellate Panel of the Ninth Circuit, in a published opinion, In re Hanger, 217 B.R. 592 (9th Cir. BAP 1997), held that Appellee Bank of America, National Trust and Savings Association retained a secured claim in the amount of $33,183.

As that decision correctly applied Bankruptcy Code section 522(f)(2)(A), 11 U.S.C. S 522(f)(2)(A), which provides a statutory calculation to determine when a lien is avoidable, the decision of the BAP is AFFIRMED. Notes: 1 Honorable Charles R. Weiner, Senior United States District Judge, Eastern District of Pennsylvania, sitting by designation.