

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Joseph A. Unanue, et al. v. Ulpiano Unanue-Casal

No. 93-2186 · No. No. 93-2186 · Decided May 12, 1994

SUMMARY

The First Circuit summarily affirmed the district court's reversal of the bankruptcy court's refusal to lift the automatic stay under 11 U.S.C. § 362. The court relied on the district court's reasoning and rejected the appellant's remaining arguments as insubstantial, without addressing whether the appeal was moot.

CASE DETAILS

COURT	United States Court of Appeals for the First Circuit
WRITING FOR THE COURT	Per Curiam; Selya, Circuit Judge; Coffin, Senior Circuit Judge; Bownes, Senior Circuit Judge
JURISDICTION	Federal
DECIDED	May 12, 1994
DOCKET	No. 93-2186
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the District of Puerto Rico, which reversed the bankruptcy court's refusal to lift the automatic stay.
STANDARD OF REVIEW	The court reviewed the district court's decision for error and summarily affirmed under 1st Cir. Loc. R. 27.1.
PRECEDENTIAL VALUE	Unpublished and not for publication
PARTIES	Ulpiano Unanue-Casal a/k/a Charles Unanue v. Joseph A. Unanue, Frank Unanue, Goya Foods, Inc., Remaining appellees

TOPICS

- automatic stay
- bankruptcy
- appellate procedure
- appellate jurisdiction

PRACTICE AREAS

- Bankruptcy
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the district court erred in reversing the bankruptcy court's refusal to lift the automatic stay.
2. Whether the appeal presented a substantial question of law or fact warranting further review or remand.

HOLDINGS

1. The district court did not err in reversing the bankruptcy court's refusal to lift the automatic stay under 11 U.S.C. § 362.
2. The appeal presented no substantial question of law or fact, so the court summarily affirmed the judgment below.

KEY QUOTATIONS

“Because this appeal presents no substantial question of law or fact, we summarily affirm the judgment below.” (at 2)

FACTUAL BACKGROUND

The appeal arose from a dispute involving debtor Ulpiano Unanue-Casal, also known as Charles Unanue. The bankruptcy court had refused to lift the automatic stay under 11 U.S.C. § 362. The district court reversed that ruling, and the First Circuit reviewed the voluminous record and affirmed the district court's judgment.

PROCEDURAL HISTORY

The bankruptcy court refused to lift the automatic stay in the debtor's bankruptcy case. The district court reversed that decision. The debtor appealed, and the First Circuit summarily affirmed the district court because the appeal presented no substantial question of law or fact.

DISPOSITION

affirmed

CASES CITED

- In re Unanue-Casal, 998 F.2d 28 (1st Cir. 1993)
- Unanue-Casal v. Unanue-Casal, 898 F.2d 839 (1st Cir. 1990)
- In re Unanue Casal, Civ. No. 92-1796 GG (D.P.R. Aug. 3, 1993) (unpublished)

OPINION

PER CURIAM.

USCA1 Opinion May 12, 1994 [NOT FOR PUBLICATION] [NOT FOR PUBLICATION]
UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT
_____ No. 93-2186 IN RE ULPIANO UNANUE-CASAL, a/k/a
CHARLES UNANUE, Debtor. _____ JOSEPH A. UNANUE, ET AL.,

Petitioners, Appellees, v. ULPIANO UNANUE-CASAL a/k/a CHARLES UNANUE, Respondent, Appellant. _____ APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO [Hon.

Gilberto Gierbolini, U.S. District Judge] _____
Before Selya, Circuit Judge, _____ Coffin and Bownes, Senior Circuit Judges. _____ Jan Alan Brody, with whom Carella, Byrne, Bain, Gilfillan, _____ Cecchi, Stewart & Olstein, William Vidal-Carvajal, and Hernandez _____ & Vidal were on brief, for appellant. _____ Arturo J. Garcia-Sola, with whom Jose R. Gonzalez-Irizarry _____ and McConnell Valdes were on brief, for appellees Joseph A. _____ Unanue, Frank Unanue, and Goya Foods, Inc. Michael R. Griffinger, with whom Crummy, Del Deo, Dolan, _____ Griffinger & Vecchione and Guillermo A. Nigaglioni were on brief, _____ for remaining appellees.

Per Curiam. This is the latest chapter in a dispute Per Curiam. _____ that has been litigated with fierce tenacity by the debtor, Ulpiano Unanue-Casal, a/k/a Charles Unanue. See, e.g., In re _____ Unanue-Casal, 998 F.2d 28 (1st Cir. 1993); Unanue-Casal v. _____ Unanue-Casal, 898 F.2d 839 (1st Cir. 1990).

Although tenacity is _____ to be admired, it is sometimes misplaced. So it is here. We have carefully reviewed the voluminous record and the parties' briefs, and have duly considered the matters raised at oral argument.

In the end, we are persuaded that the district court did not err in reversing the bankruptcy court's refusal to lift the automatic stay, 11 U.S.C. 362. The district court's well-conceived opinion, see In re Unanue Casal, Civ. No. 92-1796 _____ GG (D.P.R. Aug. 3, 1993) (unpublished), adequately elucidates the reasoning that is controlling on the central issue presented by this appeal, and no useful purpose would be served by rehearsing that reasoning.

Similarly, we see no basis for a remand to the bankruptcy court for further exploration of this issue. And, finally, appellant's other arguments are mere makeweights. We need go no further. Because this appeal presents no substantial question of law or fact, we summarily affirm the judgment below.¹ Affirmed. See 1st Cir. Loc. R. 27.1. Affirmed. See 1st Cir.

Loc. R. 27.1. _____ ¹We take no view of appellees' claim that the appeal is moot, as the appeal is impuissant in any event. ²