UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

DaimlerChrysler Financial Services Americas LLC v. Barrett

DaimlerChrysler Financial Services Americas LLC v. Barrett (In re Barrett), 543 F.3d 1239 (11th Cir. 2008) · No. Nos. 07-14796, 07-14797 · Decided September 29, 2008

SUMMARY

The Eleventh Circuit held that surrender of a 910 vehicle in a Chapter 13 bankruptcy does not automatically satisfy the debtor's entire obligation. After surrender, a creditor may pursue an unsecured deficiency claim when the parties' contract and applicable state law provide for recourse. The court vacated the bankruptcy court's orders and remanded for further proceedings.

CASE DETAILS

COURT	United States Court of Appeals for the Eleventh Circuit
WRITING FOR THE COURT	C. Roger Vinson, District Judge, sitting by designation; Frank M. Hull Tjoflat, Circuit Judge; Stanley Marcus, Circuit Judge
JURISDICTION	Federal
DECIDED	September 29, 2008
DOCKET	Nos. 07-14796, 07-14797
DISPOSITION	vacated
PROCEDURAL POSTURE	Direct consolidated appeal from two bankruptcy court orders overruling DaimlerChrysler's objection to confirmation and confirming the debtors' Chapter 13 plan.
STANDARD OF REVIEW	De novo review of the bankruptcy court's conclusions of law because the facts were undisputed.
PRECEDENTIAL VALUE	Published Eleventh Circuit opinion; binding circuit precedent.
PARTIES	DaimlerChrysler Financial Services Americas LLC v. Rollifee Franklin Barrett, Jr., Mary Ann Barrett

TOPICS

chapter 13 · bankruptcy · statutory interpretation · contracts · legislative intent

PRACTICE AREAS

bankruptcy · consumer finance · secured transactions · contract law

QUESTIONS PRESENTED

1. Whether a Chapter 13 debtor's surrender of a 910 vehicle under 11 U.S.C. § 1325(a)(5)(C) fully satisfies the creditor's claim and bars the creditor from asserting an unsecured deficiency claim.
2. Whether the creditor's right to pursue a deficiency after surrender is governed by the parties' contract and applicable state law when the hanging paragraph makes 11 U.S.C. § 506 inapplicable.

HOLDINGS

1. Surrender of a 910 vehicle does not necessarily satisfy the creditor's entire claim or bar an unsecured deficiency claim. A creditor may pursue an unsecured deficiency claim after surrender when the parties' contract and applicable state law provide for recourse.
2. Any deficiency remaining after disposition of the surrendered vehicle is treated as an unsecured claim, not as a fully secured claim entitled to payment in full.

KEY QUOTATIONS

> *"We thus join the Seventh, Eighth, Tenth, and Fourth Circuits[8] and hold that a creditor may pursue an unsecured deficiency claim when the debtor surrenders a 910 vehicle. The deficiency claim is to be governed by the parties' contract and applicable state law, and will depend on whether the contract and state law provide for recourse."* (543 F.3d at 1247)

FACTUAL BACKGROUND

On August 15, 2006, Rollifee Franklin Barrett, Jr. and Mary Ann Barrett purchased a 2006 Jeep Liberty for personal use through a retail installment contract, with DaimlerChrysler as the secured creditor. The debtors filed for Chapter 13 bankruptcy on March 22, 2007, making the vehicle a 910 vehicle, and DaimlerChrysler filed a secured proof of claim for $25,661.27. The debtors' plan proposed surrendering the vehicle in full satisfaction of the debt while paying 100 percent of allowed unsecured claims; DaimlerChrysler objected because the plan made no provision for a deficiency claim.

PROCEDURAL HISTORY

The debtors filed a Chapter 13 petition after purchasing a vehicle within 910 days before filing. Their plan proposed surrendering the vehicle in full satisfaction of DaimlerChrysler's claim without providing for any deficiency. The bankruptcy court overruled DaimlerChrysler's objection and confirmed the plan. The bankruptcy court certified the appeal under 28 U.S.C. § 158(d)(2)(A), and the Eleventh Circuit accepted direct appellate jurisdiction.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the bankruptcy court's orders overruling DaimlerChrysler's objection and confirming the Chapter 13 plan, and remand for further proceedings consistent with the opinion, including consideration of any deficiency claim authorized by the parties' contract and applicable state law.

CASES CITED

- In re Calvert, 907 F.2d 1069 (11th Cir. 1990)
- Johnson v. Home State Bank, 501 U.S. 78 (1991)
- Associates Commercial Corp. v. Rash, 520 U.S. 953 (1997)
- In re Rodriguez, 375 B.R. 535 (9th Cir. BAP 2007)
- In re Particka, 355 B.R. 616 (Bankr. E.D. Mich. 2006)
- In re Wright, 492 F.3d 829 (7th Cir. 2007)
- Butner v. United States, 440 U.S. 48 (1979)
- Travelers Casualty & Surety Co. v. Pacific Gas & Electric Co., 549 U.S. 443 (2007)
- Raleigh v. Illinois Department of Revenue, 530 U.S. 15 (2000)
- Capital One Auto Finance v. Osborn, 515 F.3d 817 (8th Cir. 2008)
- In re Long, 519 F.3d 288 (6th Cir. 2008)
- In re Ballard, 526 F.3d 634 (10th Cir. 2008)
- Tidewater Finance Co. v. Kenney, 531 F.3d 312 (4th Cir. 2008)
- AmeriCredit Financial Services, Inc. v. Moore, 517 F.3d 987 (8th Cir. 2008)
- Graupner v. Nuvell Credit Corp., 537 F.3d 1295 (11th Cir. 2008)
- Lewis v. Manufacturers National Bank, 364 U.S. 603 (1961)

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