SUPREME COURT OF NEBRASKA

First National Bank of Unadilla, Countryside Bank v. Jack D. Betts

275 Neb. 665 (2008) · No. No. S-07-023 · Decided May 9, 2008

SUMMARY

The Nebraska Supreme Court addresses whether a father's guaranty of his son's loan continued after the loan was renewed and consolidated with another obligation. The court held that the borrowers met the guaranty's specified creditworthiness standard, so newly advanced indebtedness was not covered, but the guaranty continued to secure the $5,636.74 outstanding principal from the original loan. The court affirmed in part, reversed in part, and remanded with directions to enter judgment for the bank in that amount plus interest.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Wright, J.; Heavican, C.J.; Connolly, J.; Gerrard, J.; Stephan, J.; McCormack, J.; Miller-Lerman, J.
JURISDICTION	Nebraska
DECIDED	May 9, 2008
DOCKET	No. S-07-023
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Bank appealed from the Nemaha County District Court's judgment reversing a county court judgment enforcing Jack D. Betts's guaranty of a loan made to his son.
STANDARD OF REVIEW	Appeals from the county court are generally reviewed for error appearing on the record. The inquiry is whether the decision conforms to law, is supported by competent evidence, and is neither arbitrary, capricious, nor unreasonable; questions of law are reviewed de novo on the record.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	First National Bank of Unadilla, Countryside Bank v. Jack D. Betts

TOPICS

contract interpretation · contracts · commercial litigation · standard of review · appellate procedure

PRACTICE AREAS

Contract law | Commercial litigation | Appellate procedure

QUESTIONS PRESENTED

1. Whether Brad and Elizabeth Betts met the creditworthiness standard in Jack's guaranty when they executed the May 2000 note.
2. Whether the May 2000 note extinguished Jack's liability under the guaranty for the existing balance of the 1998 note.
3. Whether the district court properly reversed the county court's judgment and entered judgment for Jack.

HOLDINGS

1. Brad and Elizabeth met the guaranty's creditworthiness standard when they executed Note #9224 because their assets and income demonstrated creditworthiness without the addition of a guaranty.
2. Note #9224 did not subject Jack to liability for new indebtedness incurred on the borrowers' own creditworthiness, but it also did not extinguish Jack's existing liability of $5,636.74 because that amount had not been fully paid and discharged.

KEY QUOTATIONS

> *"The liability of the guarantor is not to be enlarged beyond the strict terms of the contract."*

> *"We conclude that Note #9224 did not relieve Jack of liability for the $5,636.74 which existed under the guaranty at the time Note #9224 was executed."*

FACTUAL BACKGROUND

Brad M. Betts borrowed money from the Bank and his father, Jack D. Betts, signed a guaranty for a July 1998 note secured by vehicles. In May 2000, Brad and his wife obtained a new note that renewed the 1998 note and another loan, added new funds, and was secured by their home; the Bank's financial statement showed the couple had substantial income and net worth. After the borrowers defaulted and the Bank received no proceeds from a trustee's sale, the Bank sought payment from Jack under the 1998 guaranty.

PROCEDURAL HISTORY

The Nemaha County Court entered judgment for the Bank for $17,033.32, concluding that Jack's 1998 continuing guaranty covered the renewed loan and that Jack remained liable because he had not revoked the guaranty. The Nemaha County District Court reversed, determining that the guaranty did not cover the later note because the borrowers met the Bank's creditworthiness standard and the Bank failed to prove otherwise. The Nebraska Supreme Court affirmed in part, reversed in part, and remanded with directions to enter judgment for the Bank for $5,636.74 plus interest.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Enter judgment in favor of the Bank and against Jack in the amount of $5,636.74 plus interest from August 8, 2002.

CASES CITED

- Stover v. County of Lancaster, 271 Neb. 107, 710 N.W.2d 84 (2006)
- Thomas Lakes Owners Assn. v. Riley, 9 Neb. App. 359, 612 N.W.2d 529 (2000)
- NEBCO, Inc. v. Adams, 270 Neb. 484, 704 N.W.2d 777 (2005)
- Eagle Run Square II v. Lamar's Donuts Internat., 15 Neb. App. 972, 740 N.W.2d 43 (2007)
- Knox v. Cook, 233 Neb. 387, 446 N.W.2d 1 (1989)
- In re Estate of Fischer, 227 Neb. 722, 419 N.W.2d 860 (1988)

INSTRUCTIONS FOR AN AI ASSISTANT