UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF WISCONSIN

In the Matter of Irma E. Hintz; In the Matter of Ronald C. Foth and Joan Foth

86 B.R. 571 (Bankr. E.D. Wis. 1988) · No. Bankruptcy Nos. 87-03084, 87-02581 · Decided January 28, 1988

SUMMARY

The United States Bankruptcy Court for the Eastern District of Wisconsin considers whether dairy-farmer debtors may avoid the Farmers Home Administration's nonpossessory, non-purchase-money security interests in farm machinery under 11 U.S.C. § 522(f)(2)(B). Applying the Seventh Circuit's interpretation in In re Patterson, the court distinguishes modest tools from capital assets and grants lien avoidance for certain miscellaneous tools while denying it for most listed farm implements.

CASE DETAILS

COURT	United States Bankruptcy Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	Dale E. Ihlenfeldt, Senior Bankruptcy Judge; Clevert, Chief Bankruptcy Judge; Shapiro, Bankruptcy Judge; Eisenberg, Bankruptcy Judge; McGarity, Bankruptcy Judge; Ihlenfeldt, Senior Bankruptcy Judge
JURISDICTION	Wisconsin
DECIDED	January 28, 1988
DOCKET	Bankruptcy Nos. 87-03084, 87-02581
DISPOSITION	other
PROCEDURAL POSTURE	Chapter 7 debtors moved under 11 U.S.C. § 522(f)(2)(B) to avoid the Farmers Home Administration's nonpossessory, nonpurchase-money security interests in farm machinery claimed exempt under Wisconsin Statute § 815.18(6). The matters were submitted on agreed statements of fact.
STANDARD OF REVIEW	The court applied the governing statutory interpretation of 11 U.S.C. § 522(f)(2)(B) and the Seventh Circuit's interpretation in In re Patterson; the matters were decided on agreed facts.
PRECEDENTIAL VALUE	Published bankruptcy court opinion applying controlling Seventh Circuit precedent

TOPICS

bankruptcy exemptions | chapter 7 | asset protection | statutory interpretation | remedies

PRACTICE AREAS

Bankruptcy | Exemptions | Secured transactions | Statutory interpretation

QUESTIONS PRESENTED

1. Whether farm machinery claimed exempt under Wisconsin's exemption statute qualifies as an implement or tool of the trade under 11 U.S.C. § 522(f)(2)(B), permitting avoidance of FmHA's nonpossessory, nonpurchase-money liens.
2. Whether the listed farm machinery constituted capital assets outside the scope of the implements-and-tools-of-the-trade category, while miscellaneous tools and similar items remained eligible for lien avoidance.

HOLDINGS

1. Under the Seventh Circuit's interpretation in In re Patterson, § 522(f)(2)(B)'s references to implements and tools of the trade do not encompass farm capital assets such as tractors and other substantial farm machinery merely because the assets are exempt under state law.
2. On the record presented, the debtors could avoid FmHA's liens on the specifically listed miscellaneous tools and similar items, but not on the other listed farm machinery.

KEY QUOTATIONS

> *“The purpose of the tools of the trade exemption is to enable an artisan to retain tools of modest value so that he is not forced out of his trade.”* (574)

> *“The tractor is not a modest implement but an expensive piece of machinery. It is one of the principal capital assets of a small farm.”* (574)

> *“Since cows and tractors are not tools of the trade, a lien on them can't be avoided by virtue of 522(f)(2)(B).”* (574)

> *“On the record as presented, the motions under § 522(f)(2)(B) will be granted as to these items. The motions will be denied as to the other listed items.”* (576)

FACTUAL BACKGROUND

The debtors were Wisconsin dairy farmers who filed Chapter 7 petitions and sought to continue farming. FmHA held valid nonpossessory, nonpurchase-money security interests in farm machinery and cattle securing outstanding loans. The parties agreed that the machinery was exempt under Wisconsin Statute § 815.18(6), and the debtors sought to avoid the liens under 11 U.S.C. § 522(f)(2)(B).

PROCEDURAL HISTORY

Irma E. Hintz and Ronald C. Foth and Joan Foth filed separate Chapter 7 petitions and sought to avoid FmHA liens on farm machinery. The debtors conceded the validity of the liens, and FmHA conceded that the machinery was exempt under Wisconsin law. The bankruptcy court granted the motions as to certain items described as tools and denied them as to the remaining farm machinery.

DISPOSITION

other

CASES CITED

- In re Erickson, 815 F.2d 1090 (7th Cir. 1987)
- In re Patterson, 825 F.2d 1140 (7th Cir. 1987)
- In re Smith, 640 F.2d 888 (7th Cir. 1981)
- In re LaFond, 791 F.2d 623 (8th Cir. 1986)
- In re Liming, 797 F.2d 895 (10th Cir. 1986)
- In re Duss, 79 B.R. 821 (Bankr. W.D. Wis. 1987)
- In re Taylor, 73 B.R. 149 (Bankr. B.A.P. 9th Cir. 1987)
- United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd., 484 U.S. 365, 108 S. Ct. 626, 98 L. Ed. 2d 740 (1988)
- In re LaFond, 45 B.R. 195, 198 (Bankr. D. Minn. 1984)