UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF MINNESOTA

In re G-N Partners, aka G-N Roberts Properties

48 B.R. 459 (Bankr. D. Minn. 1985) · No. Bankruptcy No. 4-85-342 · Decided March 28, 1985

SUMMARY

The United States Bankruptcy Court for the District of Minnesota denied Roberts Construction, Inc.'s motion to dismiss or abstain under 11 U.S.C. § 305(a)(1). The court held that § 305 provides a limited basis for dismissal when the interests of both the debtor and creditors would be better served, and found that Roberts neither adequately alleged nor demonstrated that standard.

CASE DETAILS

COURT	United States Bankruptcy Court for the District of Minnesota
WRITING FOR THE COURT	Robert J. Kressel
JURISDICTION	Minnesota
DECIDED	March 28, 1985
DOCKET	Bankruptcy No. 4-85-342
DISPOSITION	other
PROCEDURAL POSTURE	Roberts Construction, Inc. moved to abstain, seeking dismissal of the debtor's Chapter 11 case under 11 U.S.C. § 305(a)(1).
PRECEDENTIAL VALUE	Published bankruptcy court opinion; persuasive authority within the District of Minnesota and elsewhere, subject to applicable appellate precedent.
PARTIES	Roberts Construction, Inc. v. G-N Partners, aka G-N Roberts Properties

TOPICS

bankruptcy · chapter 11 · motions to dismiss · statutory interpretation · legislative intent

PRACTICE AREAS

Bankruptcy

QUESTIONS PRESENTED

1. Whether the bankruptcy court could dismiss the Chapter 11 case under 11 U.S.C. § 305(a)(1) when the motion did not allege or establish that the interests of both the debtor and the creditors would be better served by dismissal.
2. Whether the court should expand the limited statutory grounds for dismissal under § 305 beyond those expressly stated by Congress.

HOLDINGS

1. A case may be dismissed under § 305(a)(1) only when the interests of both the debtor and the creditors would be better served by dismissal; Roberts failed to allege or demonstrate that statutory condition.
2. The court should not expand the grounds for dismissal under § 305 beyond those clearly stated by Congress because the power to decline bankruptcy jurisdiction is extraordinary and the decision is nonreviewable.

KEY QUOTATIONS

> *"I think it therefore most inappropriate to expand the grounds for dismissal under § 305 beyond those clearly stated by Congress."* (461)

> *"Thus it is clear that although creditors may have other remedies, their quickest and most expedient remedy will be in a bankruptcy case."* (462)

FACTUAL BACKGROUND

G-N Partners, a Minnesota general partnership, filed a Chapter 11 bankruptcy case involving an option related to real property that Roberts Construction had sold to the debtor for approximately $55 million. The debtor asserted in separate proceedings that the bankruptcy filing extended its opportunity to exercise the option, potentially generating a profit with which to pay creditors and provide funds to its partners. Roberts sought dismissal under § 305(a)(1), arguing principally that creditors would be better served outside bankruptcy, but it did not show that dismissal would better serve either the debtor or the creditors.

PROCEDURAL HISTORY

The bankruptcy court heard Roberts Construction's motion after notice and appearance by counsel for Roberts and the debtor. The court denied the motion because it did not allege or establish that dismissal would better serve both the debtor's and creditors' interests. The court noted that Roberts had separately moved for dismissal under 11 U.S.C. § 1112(b), but that motion was not decided.

DISPOSITION

other

CASES CITED

- In re Missouri, 22 B.R. 600 (Bankr. E.D. Ark. 1982)
- In re Fast Food Properties, Ltd. #1, 5 B.R. 539 (Bankr. C.D. Cal. 1980)

- In re Colonial Ford, Inc., 24 B.R. 1014 (Bankr. D. Utah 1982)