

# UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

## Paddock, LLC v. Bennett (In Re Bennett)

Paddock, LLC v. Bennett (In Re Bennett), 917 F.3d 676 (8th Cir. 2019) · No. 18-2098 · Decided February 28, 2019

### SUMMARY

In this Chapter 13 bankruptcy case, the Eighth Circuit held that a manufactured home was personal property under Iowa’s common-law fixture test, not real property, and therefore the anti-modification provision of 11 U.S.C. § 1322(b)(2) did not bar bifurcation of the creditor’s secured claim under § 506(a)(1). The court applied clear-error review to the bankruptcy court’s factual findings that the home sat on piers and blocks, could be removed without substantial loss, and that the ground lease did not show an intent to make the home a permanent accession. The ruling affirms that state law governs whether a manufactured home is real or personal property for purposes of the anti-modification exception, and that the creditor bears the burden of proving the exception applies.

### CASE DETAILS

|                       |                                                                                                                                                                                                                    |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States Court of Appeals for the Eighth Circuit                                                                                                                                                              |
| WRITING FOR THE COURT | Benton; Beam; Erickson                                                                                                                                                                                             |
| JURISDICTION          | Federal                                                                                                                                                                                                            |
| DECIDED               | February 28, 2019                                                                                                                                                                                                  |
| DOCKET                | 18-2098                                                                                                                                                                                                            |
| DISPOSITION           | affirmed                                                                                                                                                                                                           |
| PROCEDURAL POSTURE    | Appeal from the Bankruptcy Appellate Panel for the Eighth Circuit affirming the bankruptcy court's confirmation of the debtors' Chapter 13 plan over the creditor's objection to bifurcation of its secured claim. |
| STANDARD OF REVIEW    | Factual findings reviewed for clear error; conclusions of law reviewed de novo; mixed questions of law and fact reviewed for clear error when primarily factual.                                                   |
| PRECEDENTIAL VALUE    | Published                                                                                                                                                                                                          |
| PARTIES               | The Paddock, LLC v. Benjamin Matthew Bennett; Teresia Robin Bennett                                                                                                                                                |

### TOPICS

bankruptcy

chapter 13

secured transactions

real estate

contracts

## PRACTICE AREAS

Bankruptcy

Real Property

Contracts

## QUESTIONS PRESENTED

1. Whether the bankruptcy court erred in finding that the manufactured home was personal property under Iowa law, and thus not subject to the anti-modification provision of 11 U.S.C. § 1322(b)(2).

## HOLDINGS

1. The manufactured home is personal property, not a fixture, because the bankruptcy court's factual findings that it sits on piers and blocks, can be removed without substantial loss, and the intent was not to make it a permanent accession, are not clearly erroneous.

## KEY QUOTATIONS

*“Under Iowa common law, personal property is a fixture—thus real property—when: (1) it is actually annexed to the realty, or to something appurtenant thereto; (2) it is put to the same use as the realty with which it is connected; and (3) the party making the annexation intends to make a permanent accession to the freehold.”* (at 679)

*“[T]he intention is paramount and really the determining factor.”* (at 680)

*“The bankruptcy court's finding—the Bennetts' home did not meet Iowa's fixture test and is thus not real property—is not clearly erroneous.”* (at 681)

*“Where there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous.”* (at 681)

## FACTUAL BACKGROUND

The Paddock installs, rents, and sells manufactured homes in a planned neighborhood it owns. The Bennetts rented and later purchased a manufactured home, financing it with monthly payments. They also entered into a 990-year ground lease for the lot. The home was placed on pier pads and concrete blocks, not a concrete foundation. The bankruptcy court found that the home was not a fixture under Iowa law.

## PROCEDURAL HISTORY

The Bennetts filed for Chapter 13 bankruptcy. Their plan proposed bifurcating The Paddock's secured claim in their manufactured home. The Paddock objected, arguing the home was real property and thus subject to the anti-modification provision of 11 U.S.C. § 1322(b)(2). The bankruptcy court overruled the objection, holding the home was personal property under Iowa law. The BAP affirmed. The Paddock appealed.

## DISPOSITION

affirmed

#### CASES CITED

- In re Terry, 687 F.3d 961 (8th Cir. 2012)
- U.S. Bank N.A. v. Village at Lakeridge, LLC, 138 S. Ct. 960 (2018)
- Educ. Assistance Corp. v. Zellner, 827 F.2d 1222 (8th Cir. 1987)
- In re Jordan, 403 B.R. 339 (Bankr. W.D. Pa. 2009)
- Nobelman v. Am. Sav. Bank, 508 U.S. 324 (1993)
- Butner v. United States, 440 U.S. 48 (1979)
- In re WEB2B Payment Sols., Inc., 815 F.3d 400 (8th Cir. 2016)
- In re Reinhardt, 563 F.3d 558 (6th Cir. 2009)
- In re Ennis, 558 F.3d 343 (4th Cir. 2009)
- Ford v. Venard, 340 N.W.2d 270 (Iowa 1983)
- Cornell College v. Crain, 235 N.W. 731 (Iowa 1931)
- Speer v. Donald, 207 N.W. 581 (Iowa 1926)
- Ottumwa Woolen Mill Co. v. Hawley, 44 Iowa 57 (1876)
- Fehleisen v. Quinn, 165 N.W. 213 (Iowa 1917)
- Langer v. Iowa Beef Packers, Inc., 420 F.2d 365 (8th Cir. 1970)
- Dollar v. Smithway Motor Xpress, Inc., 710 F.3d 798 (8th Cir. 2013)
- Cutcliff v. Reuter, 791 F.3d 875 (8th Cir. 2015)
- Anderson v. Bessemer City, 470 U.S. 564 (1985)
- United States v. U.S. Gypsum Co., 333 U.S. 364 (1948)
- In re Hixon, 387 F.3d 695 (8th Cir. 2004)
- Durband v. Noble, 166 N.W. 581 (Iowa 1918)
- Peoria Stone & Marble Works v. Sinclair, 124 N.W. 772 (Iowa 1910)
- In re Green, 436 B.R. 91 (Bankr. S.D. Ill. 2010)
- In re Coleman, 392 B.R. 767 (B.A.P. 8th Cir. 2008)
- In re Estate of Parker, 25 S.W.3d 611 (Mo. App. 2000)
- In re Acceptance Ins. Cos., 567 F.3d 369 (8th Cir. 2009)