

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

IN RE: §
§
JAMES ROBERT PRATZ and § CASE NO. 401-46653-DML-7
DENISE ANN SMITH PRATZ §

MEMORANDUM OPINION AND ORDER

H.D. Smith Wholesale Drug Co., f/k/a Texas Drug Co. (“TDC”), a creditor of the Debtors, filed its Objection to Exemptions (the “Objection”) on November 8, 2001. In its Objection, TDC asserted that Debtors’ 1997 Mercedes Benz E 300 (the “Mercedes”) was not an exempt asset of the estate because title to the car is held in the name of Plaza Healthcare Pharmacy (“PHC”), the d/b/a of James R. Pratz, Inc.¹, a wholly owned corporation of the Debtors, ownership of which passed to the Debtors’ estate upon the commencement of this case (11 U.S.C. §541(a)).

The Debtors filed their Response to Objection to Claim of Exemption as Filed by H.D. Smith Wholesale Drug Co. (the “Response”), and hearing was held on the Objection on December 3, 2001 before this Court. The Court has jurisdiction over this contested matter pursuant to 28 U.S.C. §1334, and this is a core proceeding under 28 U.S.C. 1571(b)(2). This Memorandum Opinion constitutes the Court’s findings of fact and conclusions of law (Fed. R. Bankr. P. 7052, made applicable by Fed. R. Bankr. P. 9014).

¹It is important that the TDC is not a creditor of PHC, but only the Debtors as a result of a \$243,347.22 judgment against the Debtors.

At the December 3 hearing TDC presented exhibits evidencing that title was in the name of PHC². The Debtors, however, introduced evidence that they had made the payments for insurance, maintenance and financing on the Mercedes from their personal bank accounts. Debtors also presented evidence that PHC was hopelessly insolvent, even considering any equity in the Mercedes, and that their Chapter 7 trustee has not attempted to realize value from PHC.³

In argument, as in the pleadings, TDC asserted that because title to the Mercedes was in PHC and not the Debtors, the car could not be part of the Debtors' bankruptcy estate. In response, the Debtors argued that they were the equitable owners of the Mercedes. Debtors take the position that, as equitable owners, they may claim the Mercedes as exempt.

I. DISCUSSION

1. Standing

Standing is question of law. *See In re Caroselli*, 1995 U.S. App. LEXIS 14761 (9th Cir. 1995). Standing in bankruptcy cases is conferred by a movant's economic interest in the outcome of the case. *See id.* Should a party lack a "pecuniary interest in the outcome" he lacks standing. *See id.* Without a financial interest in a matter, a party cannot be a party in interest under 11 U.S.C. §522. *See In re Farmer*, 786 F.2d 618, 621 (4th Cir. 1986).

While "general bankruptcy law and case law indicates all creditors have standing to object [to a Debtor's claimed exemptions]," *see In re Geoghegan*, 101 B.R. 329, 330 (Bankr. M.D. Fla. 1989), in

²Debtors do not dispute, and in fact admit, that legal title of the Mercedes is in the corporation or that the stock of the corporation passed to the estate. The issue hinges on whether or not the Debtors' equitable interest in the vehicle is exempt.

³The trustee did not challenge exemption of the Mercedes or participate in this matter.

this case, even if the property is not an exempt asset, its value will accrue not to the estate (and creditors who may claim against it) but to the non-debtor corporation, PHC. TDC admits that it has a judgment only against Debtor individually, and has no claim against PHC.⁴ So even if TDC were successful in its challenge to the Debtor's exemption, given the insolvency of PHC, no value would be added to the estate for the benefit of TDC and other creditors.⁵ Such a lack of economic interest in the Debtor's exemption leaves TDC without standing to object.

2. Exemption of the Mercedes

Notwithstanding TDC's apparent lack of an economic interest in whether the Mercedes was properly claimed as exempt or was owned by PHC, the Court will address the question. Section 522 of the Bankruptcy Code governs what property a debtor may exempt in a bankruptcy proceeding. *See In re Kelly*, 133 B.R. 811, 812 (Bankr. N.D. Tex. 1991).

When a debtor files a bankruptcy petition, a bankruptcy estate is created that encompasses all "legal and equitable interests of the debtor." *See* 11 U.S.C. §541(a)(1); *In re Luongo*, 259 F.3d 323, 335 (5th Cir. 2001)(citing 11 U.S.C. §541; *Owen v. Owen*, 500 U.S. 305, 308 (1991); *Martin v. United States*, 159 F.3d 932, 934 (5th Cir. 1998)). A debtor may exempt property from the estate pursuant to §522 of the Bankruptcy Code. *See id.* (citations omitted). Such property is removed from the estate for the *debtor's* benefit. *See id.* (emphasis added).

⁴TDC did assert that it could in the future acquire a claim against the corporation that would allow it to pursue the assets of the corporation, including the Mercedes. Even if that argument made sense as a practical matter, the possibility of some day acquiring a claim against PHC confers no standing on TDC.

⁵TDC's argument puts it in the position of arguing against a claim of exemption that cannot affect it at all. If the property is exempt, TDC cannot execute against it to satisfy its judgment against the Debtor. If the property is not exempt (as TDC argues) and thus belongs to PHC (as TDC further argues), then it is an asset belonging to an entity that is not a debtor of TDC.

In this case, the property the Debtor seeks to exempt is the Mercedes. Section 541 of the Code defines what is property of the estate, specifying that it is the debtor's *interest* that belongs to the estate. *See* 11 U.S.C. §541. Section 541(a)(1) specifically includes in the estate "all... equitable interests of the debtor in property." *See id.* The legislative history of §541 states that the section's definition of property "is an all-embracing definition which includes. . .beneficial rights and interests that the debtor may have in property. . . . However, only the debtor's interest in such property becomes property of the estate." *See* S.Rep. No. 989, 95th Cong., 2d Sess. 82, *reprinted in* 1978 U.S. Code Cong. & Ad. News 5787, 5868; H.R. Rep. No. 595, 95th Cong., 1st Sess. 367, *reprinted in* 1978 U.S. Code Cong. & Ad. News 5963, 6323. This congressional gloss, along with the plain language of §541(a)(1), demonstrate that a debtor need not have title to property for it to be part of the estate or, therefore, subject to exemption under the Code.

3. Under State Law

Section 522(b)(2) allows a debtor to choose to claim exemptions based on state and federal non-bankruptcy law. Here Debtors have so elected, and the Court must determine (1) if the Debtors' equitable interest in the Mercedes is subject to exemption under state law and (2) whether under state law, Debtors are equitable owners of the car. Since Texas is Debtors' domicile, its exemption laws control. Sections 42.001(a) and 42.002(a)(9) of the Texas Property Code govern the exemption at issue in this case. Section 42.001(a) states in relevant part that

(a) Personal property, as described in Section 42.002, is exempt from garnishment, attachment, execution, or other seizure if:

(1) the property is provided for a family and has an aggregate fair market value of not more than \$60,000, exclusive of the amount of any liens,

security interests, or other charges encumbering the property. . .

TEX. PROP. CODE §42.001 (A)(Vernon 2001).⁶

Section 42.002(a)(9) states

(a) The following personal property is exempt under Section 42.001(a):

...

(9) a two-wheeled, three-wheeled, or four-wheeled motor vehicle for each member of a family or single adult who holds a driver's license or who does not hold a driver's license but who relies on another person to operate the vehicle for the benefit of the nonlicensed person.

TEX. PROP. CODE §42.002 (a)(9)(Vernon 2001).

Traditionally, Texas has given a liberal construction to exemptions under its law. *See Meritz v. Palmer*, 266 F.2d 265, 267 (5th Cir. 1959); *Green v. Raymond*, 58 Tex. 80, 83 (1882); *In re Peters*, 91 B.R. 401, 409 (Bankr. W.D. Tex. 1988). A debtor may exempt property in which he has an equitable interest but no legal title. *See In re Phillips*, 270 F.2d 791 (5th Cir. 1959). The Debtor here is in a similar situation.

TDC contends that since Debtor was not the record owner of the Mercedes according to the certificate of title, Debtor's exemption of the car is impermissible. While it is true that in Texas the name on the certificate of title (in this case, PHC) creates a presumption of ownership, that presumption can be overcome by the introduction of evidence to the contrary. *See Motor Finance Co. v. Wolff*, 387 S.W.2d 129, 129 (Tex. App.–Houston [1st Dist.] 1965). Debtors have produced checks, deposit slips, insurance statements, and records of insurance payments indicating that they personally paid for and maintained the Mercedes.

⁶There is no dispute that, including the value of the Mercedes, Debtors are within the \$60,000 cap provided by the statute.

Under Texas law Debtors are the equitable owners of the Mercedes. *See Motor Finance Co. v. Wolff*, 387 S.W.2d at 129.

II.
CONCLUSION

The Debtor may exempt the Mercedes under §522(b)(2) pursuant to Texas law. Debtor's equitable interest in the vehicle became property of the estate (11 U.S.C. §541) and is subject to exemption under section 522. Under the liberal construction of Texas' exemption laws, Debtor's payment for and possession and use of the Mercedes establish equitable ownership entitled to exemption.

TDC in any event lacks standing to object to Debtor's exemption of the Mercedes. Neither the Chapter 7 trustee nor PHC nor any other person with an interest in PHC has objected to Debtors' exemption. For this reason as well, the objection should be overruled.

ORDERED that the objection of H.D. Smith Wholesale Drug Co., f/k/a Texas Drug Co. to Debtors' exemption of a 1997 Mercedes Benz automobile be, and the same hereby is, OVERRULED; and it is further,

ORDERED that such automobile be, and the same hereby is, declared EXEMPT.

Signed this _____ day of January, 2002.

DENNIS MICHAEL LYNN
UNITED STATES BANKRUPTCY JUDGE