

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

JUL 11 1986

BARBARA A. EVERLY, CLERK

IN RE:

BANKRUPTCY NO.

ERWIN J. REESER and
JUNE B. REESER,
Debtors.

85-01075W

IOWA STATE BANK,
Plaintiff,
vs.

ADVERSARY NO. 85-0405W

ERWIN J. REESER,
Defendant.

J U D G M E N T

Pursuant to the Ruling re: \$523 and \$727 Complaint entered herein on July 7, 1986,

IT IS ORDERED the Plaintiff, Iowa State Bank, shall recover of Defendant Erwin J. Reeser the sum of Eight Thousand Seven Hundred Sixty-seven and no/100 Dollars (\$8,767.00) with interest thereon at the statutory rate.

IT IS FURTHER ORDERED this Judgment shall be entered in the Docket of the Clerk of this Court and notice of the entry of this Judgment shall be given by ordinary mail to the Defendant, Erwin J. Reeser, R.R. 1, Waverly, Iowa 50677; to the Attorney for Plaintiff, Habbo G. Fokkena, 109 North Main Street, Clarksville, Iowa 50619; and to the Trustee, Wesley B. Huisinga, 751 Progress Avenue, Waterloo, Iowa 50701.

ORDERED: July 11, 1986


MICHAEL J. MELLOY
U. S. BANKRUPTCY JUDGE

Copies mailed to parties
as above set forth
this July 11, 1986

RECORDED: Volume 1
Page 236


Deputy Clerk, Bankruptcy Court
P O Box 4371, Cedar Rapids, IA 52407

See attached Order Amending Judgment

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

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NORTHERN DISTRICT OF IOWA

OCT 30 1986

BARBARA A. EVERLY, CLERK

IN RE:
ERWIN J. REESER and
JUNE B. REESER,
Debtors.

BANKRUPTCY NO.
85-01075W

IOWA STATE BANK,
Plaintiff,
vs.
ERWIN J. REESER
Defendant.

ADVERSARY NO. 85-0405W
ORDER AMENDING JUDGMENT
ENTERED JULY 11, 1986

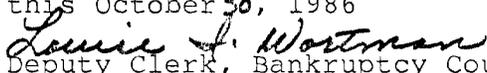
Pursuant to the Findings of Fact, Conclusions of Law and Order Assigning Judgment to Plaintiff and the Amended Judgment entered herein on this date;

IT IS ORDERED the Judgment entered herein on July 11, 1986, Recorded in Volume 1 at page 236 shall be amended as follows: The Plaintiff, Iowa State Bank, shall recover of Defendant Erwin J. Reeser the sum of Six Thousand Four Hundred Sixty-seven and no/100 Dollars (\$6,467.00) with interest at the statutory rate.

IT IS FURTHER ORDERED this Amended Judgment shall be entered in the Docket of the Clerk of this Court and that notice of the entry of this Amended Judgment shall be given by ordinary mail to the Defendant, Erwin J. Reeser, R.R. 1, Waverly, Iowa 50677; to the Attorney for Plaintiff, Habbo G. Fokkena, 109 North Main Street, Clarksville, Iowa 50619; and to the Attorney for National Farmers Organization, Richard Hansen, 3722 Cedar Heights Drive, Cedar Falls, Iowa 50513.

ORDERED: October 30, 1986


MICHAEL J. MELLOY
U. S. BANKRUPTCY JUDGE

Copies mailed to parties
as above set forth
this October 30, 1986

Deputy Clerk, Bankruptcy Court
P O Box 4371, Cedar Rapids, IA 52407

RECORDED: Volume 1
Page 236

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

OCT 30 1986

~~BARBARA A. EVERLY, CLERK~~

IN RE:)	
)	
ERWIN J. REESER and JUNE B. REESER,)	BANKRUPTCY NO. 85-01075W
)	
Debtors.)	
-----)	-----
)	
THE NATIONAL FARMERS ORGANIZATION,)	ADVERSARY NO. 86-0066W
)	
Plaintiff,)	
)	FINDINGS OF FACT, CONCLUSIONS
vs.)	OF LAW AND ORDER ASSIGNING
)	JUDGMENT TO PLAINTIFF
ERWIN REESER,)	
)	
Defendant.)	
-----)	-----
)	
IOWA STATE BANK,)	ADVERSARY NO. 85-0405W
)	
Plaintiff,)	
)	
vs.)	AMENDED JUDGMENT
)	
ERWIN REESER,)	
)	
Defendant.)	

The Complaint of the National Farmers Organization came before the Court, after due notice, on October 7, 1986. Present at the trial were Richard Hansen, attorney for the Plaintiff, and the Defendant, Erwin Reeser, appearing pro se. The Court, having heard the evidence and arguments of the parties, makes the following findings of facts, conclusions of law, and order.

FINDINGS OF FACT

1. That the Court has jurisdiction over the parties and subject matter hereto pursuant to 28 U.S.C. 1334 and 11 U.S.C. 523.

2. That the Defendant sold the cattle to the National Farmers Organization, Inc. on or about April 15, 1985, and received a check in the amount of \$2,829.80 for said cattle.

3. That the Defendant did not inform the Plaintiff that the cattle was subject to a perfected security interest in the Iowa State Bank.

4. That the Defendant was not a member of the National Farmers Organization and that this was his first transaction with the Plaintiff.

5. That as of April 15, 1985, there was pending a foreclosure action filed by the Iowa State Bank against the Defendant seeking judgment and repossession of all collateral, including the cattle sold to the Plaintiff.

6. That the Defendant did not pay the proceeds of the cattle to the Iowa State Bank.

7. That the Plaintiff received an assignment of the rights of the Iowa State Bank on February 12, 1986.

8. That the Iowa State Bank filed the above captioned adversarial Complaint based, inter alia, upon the facts set forth herein, and judgment was entered on July 11, 1986, in favor of the Iowa State Bank in the amount of \$8,767.00 with interest at the statutory rate.

9. That the issue of whether there was actual or implied consent given to the Defendant to sell said cattle was decided in the Iowa State Bank adversarial proceeding and said question is a matter of issue preclusion, or collateral estoppel, in the National Farmers Organization, Inc. proceeding.

10. That the Defendant did not have actual or implied consent of the Iowa State Bank to sell the cattle to the Plaintiff. That the Plaintiff paid to the Iowa State Bank the sum of \$2,300.00 for the assignment of Iowa State Bank's rights and interests in their claim against Defendant and for the dismissal of Iowa State Bank's claims against the National Farmers Organization, Inc.

CONCLUSIONS OF LAW

1. That the Defendant's failure to inform the Plaintiff of a prior perfected security interest allowed the Defendant to obtain money by false representation.

2. That the sale of said cattle to the National Farmers Organization, Inc. was a conversion of collateral, and thus, a willful and malicious injury to the property interests of Iowa State Bank, and National Farmers Organization, Inc., as assignee.

3. That the Defendant is indebted to the Plaintiff in the amount of \$2,300 and such is non-dischargeable pursuant to 11 U.S.C. 523(a)(2) and 11 U.S.C. 523(a)(6).

4. That the Defendant, Erwin Reeser, should not be held liable both to Iowa State Bank and National Farmers Organization,

Inc. and the rights of the Iowa State Bank have been properly assigned to National Farmers Organization.

ORDER

IT IS HEREBY ORDERED that the Plaintiff, National Farmers Organization, Inc. shall have a judgment against the Defendant, Erwin Reeser, in the amount of \$2,300.00 with interest at the statutory rate, and that the judgment awarded to the Iowa State Bank on July 11, 1986 in Adversary No. 85-0405W is accordingly reduced from \$8,767.00 to \$6,467.00 with interest at the statutory rate.

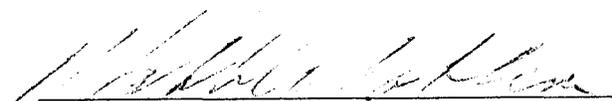


Judge Michael Melloy

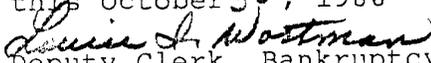
APPROVED AS TO FORM:



Richard Hansen
Attorney for the National Farmers
Organization



Habbo Fokkena
Attorney for Iowa State Bank

Copy mailed to:
Erwin J. Reeser,
Habbo G. Fokkena,
Richard Hansen,
this October 30, 1986

Deputy Clerk, Bankruptcy Court
P O Box 4371, Cedar Rapids, IA
52407