

In the United States Bankruptcy Court

for the Northern District of Iowa

ROBERT R. BUTNER, JR. and DARLENE D. BUTNER
Debtors.

Bankruptcy No. 92-42290XM
Chapter 7

ORDER RE: MOTION TO SELL PROPERTY

The matter before the court is the Trustee's motion to sell property of the estate. Hearing was held May 19, 1993, in Fort Dodge, Iowa. The Trustee, Iowa Mold Tooling Co., Inc. (IOWA MOLD TOOLING) and Darlene Butner filed briefs after the hearing. This is a core proceeding under 28 U.S.C. 157(b)(2)(A).

The Trustee seeks to sell Darlene Butner's employment discrimination claim against her former employer, Iowa Mold Tooling. Butner filed a complaint on October 29, 1992 in the Iowa District Court for Hancock County, alleging gender discrimination in the terms and conditions of her employment in violation of the Iowa Civil Rights Act and Title VII of the Federal Civil Rights Act of 1964.

The Butners filed a Chapter 7 petition December 14, 1992. On February 22, 1993, the Trustee filed a motion to sell at auction the bankruptcy estate's interest in the claim against Iowa Mold Tooling. The motion stated that Iowa Mold Tooling is interested in purchasing the property for an amount not less than \$1,000.00.

Darlene Butner objected to the sale of the claim against Iowa Mold Tooling, arguing that the proposed sale would unfairly allow Iowa Mold Tooling to compromise the claim for a nominal sum. She also argues that part of her claim against Iowa Mold Tooling is for wages she would have earned post-petition and is, therefore, not property of the estate. The Trustee and Iowa Mold Tooling both assert that the entire cause of action became property of the estate upon the commencement of the case, and the Trustee has the authority to sell it.

The court finds that Darlene Butner's claim against Iowa Mold Tooling is property of the estate, even though her potential remedies include compensation for loss of earnings for time periods after the filing of her petition. Under the broad scope of 541, her entire claim became property of the estate. See In re Carson, 82 B.R. 847, 851-52 (Bankr. S.D. Ohio 1987) (541 encompasses causes of action existing at the time of the commencement of the case).

However, the court also finds that the Trustee's sale of Darlene Butner's claim for relief is effectively a compromise of the claim. The likely buyer of the property in the proposed auction is the defendant in the suit, and the likely sale price is the minimum bid of \$1,000.00. In order to obtain approval of a compromise of a claim, the Trustee must show that the compromise is in the best interests of the estate. This determination is made by considering the following factors:

- (1) The probability of success in the litigation;
- (2) The difficulties, if any, to be encountered in the matter of collection;
- (3) The complexity of the litigation involved, and the expenses, inconvenience and delay necessarily attending it;
- (4) The paramount interest of creditors and proper deference to their reasonable views.

Carson, 82 B.R. at 853, citing Drexel v. Loomis, 35 F.2d 800 (8th Cir. 1929). The court need not determine that a settlement is the best that could be obtained. Rather, the court must decide whether the settlement "falls below the lowest point in the range of reasonableness." Carson, 82 B.R. at 853, citing In re W. T. Grant Co., 699 F.2d 599, 613 (2d

Cir. 1983), cert. denied sub nom Cosoff v. Rodman, 464 U.S. 822, 104 S.Ct. 89 (1983). The Trustee offered no evidence at the hearing which would support the reasonableness of the proposed compromise of the claim.

Accordingly, the matter will be reset for hearing on approval of the compromise.

ORDER

IT IS ORDERED that the Trustee's motion shall be set for further hearing as a Motion to Approve Compromise by the clerk.

SO ORDERED ON THIS 25th DAY OF AUGUST, 1993.

William L. Edmonds
Chief Bankruptcy Judge

I certify that on _____ I mailed a copy of this order by U. S. mail to: Larry Eide, Candy Morgan, Mark D. Sherinian and U. S. Trustee.