

In the United States Bankruptcy Court

for the Northern District of Iowa

JOSEPH G. STEVENS
MARLENE A. STEVENS

Bankruptcy No. 94-10178KC

Debtors.

Chapter 7

ORDER RE: TRUSTEE'S OBJECTION TO EXEMPTION

On May 17, 1994, the above-captioned matter came on for hearing pursuant to assignment. Plaintiffs, Joseph G. Stevens and Marlene A. Stevens, appeared with Attorney Henry E. Nathanson. Attorneys Joe Peiffer and Linda Merritt appeared for Trustee Eric Lam. Evidence was presented after which the court took the matter under advisement.

FINDINGS OF FACT

Debtors Joseph and Marlene Stevens filed a Chapter 7 Petition on February 4, 1994. The original Schedule C (Property Claimed As Exempt) filed on March 4, 1994 claims two automobiles exempt under Iowa Code § 626.7(9)(b) (1993). Debtors amended their Schedule C on March 17, 1994 by deleting both automobiles as claimed exempt property. Instead, Debtors listed a garden tractor as a motor vehicle with a value of \$6,000.

The tractor is a John Deere, model 455, diesel powered, 22 horsepower, three cylinder, self-propelled, 965 pound, "lawn and garden tractor." It is equipped with headlights, taillights, tilt steering wheel, hydrostatic power steering, disc brakes, adjustable seat, cruise control, and seating for one operator. It is capable of travel in forward and reverse, with a top forward speed of 7.5 miles per hour according to the Operator's Manual, though Debtors claim a maximum speed of 20 miles per hour. It is neither titled nor licensed.

Trustee filed an Objection to Exemption. Trustee states that this garden tractor is not titled or licensed and that its primary use is for garden or yard work. Trustee claims it is not a motor vehicle within the contemplation of the exemption statute.

Debtors filed a Resistance to Trustee's Objection to Exemption. Debtors assert that the tractor meets the statutory definitions of "motor vehicle" and "vehicle" as defined in the Motor Vehicle Chapter of the Iowa Code.

Debtor Joseph Stevens testified that he uses the tractor to cut the grass on his 2.5 acre lot and to haul lawn debris in an attachable cart. He has not used the tractor as a means of transportation. He has not driven it to either Solon which is approximately nine miles distant, or Shueyville which is approximately four miles away. He has driven the tractor on the roadway, though the purpose was merely to clear grass clippings, mud, and other debris from the tires.

Debtor testified that the value of the tractor is approximately \$8,000 with discounts in new condition. He testified that its present fair market value is approximately \$6,000. These estimates, however, include the value of the mower deck which is a separate piece of equipment valued at \$1,000. Thus, according to Debtor's testimony, the present fair market value of the tractor is approximately \$5,000.

CONCLUSIONS OF LAW

The burden of proof to sustain an objection to an exemption is on the objecting party to show that the exemption is not properly claimed. Fed.R.Bankr.P. 4003(c). The standard of proof is by a preponderance of the evidence. In re Krantz, 97 B.R. 514, 519 (Bankr. N.D. Iowa 1989). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B).

"Iowa has opted out of the federal bankruptcy exemption scheme, pursuant to 11 U.S.C. § 522(b)(1) (1988), and Iowa Code § 627.10 (1993). Thus in Iowa, debtors claim 'state-created exemptions.'" In re Krantz, 97 B.R. at 521. "When a debtor claims a state-created exemption, the scope of the claim is determined by state law." Norwest Bank Nebraska, N.A. v. Tveten, 848 F.2d 871, 873-74 (8th Cir. 1988).

Trustee bears the burden of showing that Debtors have improperly claimed the garden tractor exempt as a motor vehicle under Iowa Code § 627.6(9), the scope of which is determined by Iowa law. Subsection 9 was last replaced in 1986. Debtors are now allowed an exemption in "one motor vehicle" not to exceed a value of \$5,000 in combination with musical instruments and any interest in certain tax refunds. Id. Chapter 627 does not define "motor vehicle" and there is no Iowa case law which determines whether a garden tractor can be exempted under the motor vehicle exemption of Section 627.6(9). This Court has determined that "'value' for motor vehicle exemption purposes means equity and not gross value." In re Smith, No. L88-01716W, slip op. at 7 (Bankr. N.D. Iowa June 8, 1989).

Debtor relies exclusively on State v. Russell, 508 N.W.2d 697 (Iowa 1993). In Russell, the Iowa Supreme Court read into Iowa Code § 321J, Operating While Intoxicated, the definitions of "vehicle" and "motor vehicle" contained in Ch. 321 of the Iowa Code titled Motor Vehicles and Law of the Road. A "vehicle" is defined as "every device in, upon, or by which any person or property is or may be transported or drawn upon a highway." Iowa Code § 321.1(90). A "motor vehicle" is defined as "a vehicle which is self-propelled, but not including vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires and are not operated upon rails." Iowa Code § 321.1(42). The Court found the language in these statutory definitions to be clear and unambiguous. Russell, 508 N.W.2d at 698.

Trustee cites a series of cases which he asserts gives a more appropriate analysis of motor vehicle law. Great Am. Ins. Co. v. Golla, 493 N.W.2d 602, 604-05 (Minn. 1992) (finding that a tractor did not comport with the Safety Responsibility Act definition of a "motor vehicle" because (1) it is not designed for the transportation of persons and (2) the applicable chapter expressly excepts tractors); Jones v. Cloverdale Equip. Co., 419 N.W.2d 11, 12 (Mich. 1987) (holding "is or may be transported or drawn upon a highway" language in the owner's liability statute definition of "vehicle" requires lawful capacity of operation on a highway and finding that a forklift, which lacked headlights, taillights, turn signals, windows, doors, registration, and licensing, lacks that lawful operation capacity); Cousins v. Dennis, 767 S.W.2d 296, 298 (Ark. 1989) (finding a tractor not to be a "motor vehicle" for liability insurance requirements because the Motor Vehicle Safety Responsibility Act only requires insurance for registered motor vehicles); Smith Mach. Corp. v. Hesston, 694 P.2d 501, 503-04 (N.M. 1985) (distinguishing a "windrower" from a general purpose tractor, which is a "motor

vehicle" according to Attorney General Opinion No. 74-25 (1974), and finding the windrower not a "motor vehicle" within the meaning of the Motor Vehicle Dealers Franchising Act); Mike Eskew Motor Co. v. Kelley, 583 So. 2d 95, 96-97 (La. 1991) (determining that a tow truck and all attached equipment is a motor vehicle under Louisiana tax statute and the state constitution).

Trustee's cases are distinguishable and of little support in the argument that a garden tractor is not a motor vehicle under the Iowa Code. Great American deals with a statute that (1) defines motor vehicle as those "designed for use upon a highway" and (2) explicitly excepts tractors. 493 N.W.2d at 605. The Iowa Code has no express exception for tractors, and the Iowa Supreme Court in Russell determined the definition to be clear, therefore not requiring statutory interpretation. Russell, 508 N.W.2d at 698. Cloverdale Equipment is inapplicable on three grounds. First, the court uses statutory construction principles inconsistent with Iowa law. 419 N.W.2d at 698. Second, Cloverdale Equipment is contrary to Russell because a golf cart can be considered more like a forklift than a garden tractor, which possesses many of the indicia of a highway-capable vehicle. Finally, the Michigan Supreme Court has abrogated this holding. Mull v. Equitable Life Assurance Society, 510 N.W.2d 184, 189-91 (Mich. 1994) (finding a front-end loader is "motor vehicle" within meaning of liability statute).

Trustee cites Smith Machinery though the court distinguishes a "windrower" from a tractor which was previously determined to be a "motor vehicle." 694 P.2d at 503. The Smith Machinery court relies on Hessler v. Ford, 125 N.W.2d 132 (Iowa 1963), where the Iowa court determined that a farm tractor is a "motor vehicle" within the state automobile guest statute. Smith Mach., 694 P.2d at 503. Mike Eskew is of little precedential value because the court concluded that a tow truck was a "motor vehicle." 583 So. 2d at 96-97.

The remaining case cited by Trustee is Cousins where the Supreme Court of Arkansas used specific Motor Vehicle Safety Responsibility Act requirements to determine that a tractor was an implement of husbandry which need not be covered by liability insurance as the act required of "motor vehicles." Cousins, 767 S.W.2d at 314. The Cousins court found untenable the proposition that a "riding lawn mower" could qualify as a "motor vehicle" which the statute would require the defendant insure. Id. Contrary to Cousins, but in a similar context, the Iowa Supreme Court held that a "riding lawn mower" was a "motorized land conveyance" and a "motor vehicle". Gracey v. Heritage Mutual Ins. Co., No. 93-916, slip op. at 5 (Iowa June 22, 1994) (per curiam).

Federal courts are bound, whether at law or in equity, to apply the law of the state, whether declared by the legislature in a statute or by its highest court in a decision. Erie R. Co. v. Tompkins, 304 U.S. 64, 78, 58 S. Ct. 817, 822 (1938). In applying state law, "federal courts do not examine the correctness of state court decisions, but accord them the weight due to them under the rule of stare decisis. . . . Whatever its grounds, a decision of a state's highest court must be accepted by federal courts as authoritative on state law unless it can be said with some assurance that the state's highest court itself will not follow the decision in the future." 32 Am. Jur. 2d *Federal Practice and Proc.* § 295 (1982) (citing Williams v. Kaiser, 323 U.S. 471, 473, 323 S. Ct. 363, 365 (1945) and Meredith v. Winter Haven, 320 U.S. 228, 233 64 S. Ct. 7, 10 (1943)). Moreover, if a federal court addresses a point of law on an issue on which there are no state cases, it must attempt to predict what the state courts would hold if faced with the issue. Stevens v. State Farm Mut. Auto. Ins. Co., 508 F.2d 1363, 1366 (5th Cir. 1975).

Courts almost unanimously use liberal construction standards to interpret exemption statutes. In re Hahn, 5 B.R. 242 (Bankr. S.D. Iowa 1980). The stated purposes of exemption laws are: (1) to provide debtor with enough money to survive, (2) to protect the debtor's dignity and cultural and religious

identity, (3) to afford means of financial rehabilitation, (4) to protect the family unit from impoverishment, and (5) to spread the burden of debtor's support from society to the creditors. Kelly v. Degelau, 58 N.W.2d 374, 376 (Iowa 1953). Exemptions are the principal means by which bankruptcy's 'fresh start' is effectuated. For this reason, exemption provisions are liberally construed in favor of debtors.

The Iowa legislature exempted a "motor vehicle" in Section 627.6(9)(b) without further explanation or qualification. No Iowa appellate court has defined "motor vehicle" in the context of the Section 627.6(9)(b) exemption. The Iowa Supreme Court decisions in Russell, Hessler, and Gracey consistently defined a "motor vehicle" broadly enough to encompass the Debtors' riding garden tractor.

A number of courts have utilized a functional test to determine the scope of exemption statutes. Parrotte v. Sensenich, Nos. 370, 93-5026, 1994 WL 143243 at 3 (2nd Cir. April 20, 1994) (finding bulls may be "tools of the trade"); In re Heap, 886 F.2d 280, 283 (10th Cir. 1989) (per curiam) (finding that inclusion of live animals in a breeding stock does not change its essential function); In re Mangano, 158 B.R. 532 (Bankr. S.D. Fla. 1993) (holding that debtors' "motor home" may be exempt under homestead exemption if so utilized). Similarly, this Court has employed functional use tests on a number of occasions. See In re Kunkle, 93-60077LW, slip op. at 2-3 (Bankr. N.D. Iowa June 4, 1993) (finding that debtors used riding lawn mower, chain saw, and miscellaneous tools in the maintenance of a "substantial" yard so the items were exemptible as household goods); In re Jacobsen, 93-10724LC, slip op. at 7 (Bankr. N.D. Iowa Sept. 8, 1993) (holding that if Debtors used their mobile home as a homestead and considered it their homestead, it may be exempted as a homestead).

The Iowa Supreme Court, in Gracy v. Heritage Mutual Ins. Co., utilizes such a functional test. The controversy and the issue for ultimate determination was the function of a riding lawn mower. The plaintiff argued that a riding lawn mower is not a motor vehicle, "because its primary function is to cut grass and not for transport". Gracey at 4. The Iowa Supreme Court accepted the functional analysis test. However, in applying that test, the Court allowed a more expansive interpretation of the various functions that a lawn mower could serve. Here, the Court held that: "a riding lawn mower carries or transports its operator. The fact that, as it transports its operator, a riding lawn mower performs other work by cutting the grass does not mean it has ceased being a conveyance." Gracey at 4.

In summary, exemption statutes are liberally construed in favor of debtors to carry out the societal purpose of providing the debtor with a fresh start. The legislature exempted "motor vehicle" under Section 627.6(9) without explanation or qualification. This Court, and the Iowa Supreme Court, have both utilized a functional test to determine the scope of exemptions. The Iowa Supreme Court, in three separate decisions, has utilized the functional test to determine that a motorized vehicle, such as a garden tractor, satisfies the functional test by being capable of carrying or transporting its operator. The Iowa Supreme Court concluded that the fact that a garden tractor may perform other functions as well does not eliminate or destroy its function as a "motor vehicle". This Court is bound by Iowa law on the issue of exemptions and it is the conclusion of this Court that the Iowa Supreme Court has spoken sufficiently clearly to lead to the conclusion that a garden tractor of the variety described here qualifies as a "motor vehicle" under Iowa Code § 626.7(9)(b).

WHEREFORE, Debtors' Model 455 John Deere tractor is exemptible as a "motor vehicle" pursuant to Iowa Code § 627.6(9).

FURTHER, as determined herein, the fair market value of this "motor vehicle" is \$5,000.

FURTHER, Trustee's objection to exemption is **OVERRULED** and **DENIED**.

SO ORDERED this 27th day of July, 1994.

Paul J. Kilburg
U.S. Bankruptcy Judge