

In the United States Bankruptcy Court

for the Northern District of Iowa

JOHN G. SPECHT, CAROL C. SPECHT
Debtors.

Bankruptcy No. 96-21022KD
Chapter 12

ORDER

On February 5, 1997, the above-captioned matter came on for valuation hearing pursuant to assignment. Debtors appeared in person with Attorneys Brian Peters and Douglas Pearson. Farm Service Agency appeared by Assistant U.S. Attorney Martin McLaughlin. New Vienna Savings Bank was represented by Attorney Joseph Peiffer. This is a core proceeding pursuant to 28 U.S.C. 157(b)(2) (A, B, L).

The parties presented evidence on the valuation of two motor vehicles after which the Court took the matter under advisement. The two vehicles in question are a 1990 Chevrolet Lumina Eurosport and a 1987 Ford F-150 pickup truck with 4-wheel drive. New Vienna Savings Bank states that Debtors undervalued these two vehicles.

The Bank presented Mr. Thomas Kane as an appraiser to appraise these two vehicles along with other property. Mr. Kane introduced Exhibit 44 which is a valuation of the 1990 Chevrolet Lumina Eurosport. Much of the data upon which Mr. Kane relies in making this determination is derived from the NADA Blue Book. Based upon this valuation, Mr. Kane placed a value of \$6,050 on this vehicle. He also appraised the 1987 Ford F-150 pickup with 4-wheel drive. Again, the estimate of value is derived largely from the NADA Blue Book. Mr. Kane took the base value from the Blue Book and included an add-on for 4-wheel drive for a total value of \$6,325.

Debtor Mr. Specht testified that he is the owner of these two vehicles. He testified that he has owned the 1987 Ford pick-up for a long time and that it has in excess of 150,000 miles. He testified that the general condition of the body is poor and that it has considerable rust. He placed a value on the pickup, as its owner, in the amount of \$4,000. He also testified that he owns the 1990 Chevrolet Lumina. He testified that this has between 101,000 and 102,000 miles. He testified that the value was not as high as estimated by the Bank though he did not place a specific value on this vehicle. He testified that it also is in less than ideal condition. Debtor valued the Lumina at \$3,000 in his schedules.

As valuation of these vehicles is made pursuant to 11 U.S.C. 506(a), "the value of [the] lien interest is properly based on the retail value of the collateral without deduction for costs of sale." In re Trimble, 50 F.3d 530, 531-32 (8th Cir. 1995). This Court has cited this valuation method with approval. In re Simon, No. 94-21591KD, slip op. at 4 (Bankr. N.D. Iowa Dec. 7, 1995).

Much of the valuation testimony is based upon NADA Blue Book values, adjusted by mileage and condition of the vehicle. "[When t]here's been a dispute in testimony about the value of [] a vehicle . . . [e]verybody looks at [publications used in the automobile industry] as a first reference. . . . [T]he court also knows [they are] not the final reference, [they are] not the last word." First Tennessee Bank Nat. Ass'n. v. Helton, 1995 WL 515658 at *3 (Tenn. App.).

HIGH MILEAGE

In determining the value of a motor vehicle, deductions for high mileage are appropriate. High mileage cars must often be sold at a discount price below the listed book price. The NADA handbook lists guidelines for high mileage deductions. At page V, it states that in no case should the high mileage deduction exceed 40% of the trade-in value.

The NADA value of the 1987 truck with four-wheel drive and high mileage deduction is \$4725. The NADA value of the 1990 Lumina Eurosport with high mileage deduction is \$5025.

TRUCK'S CONDITION

The NADA Blue Book, at page IV, states that "the overall condition of the vehicle should be considered when making adjustment for vehicle value." Experts in various cases use condition as a basis for valuations. In Strong v. Wachovia Bank of Georgia, 451 S.E.2d 524, 527 (Ga. App. 1994), the value of a boat was based on examination of the NADA and a condition report. In Neely v. State, 628 So.2d 1376, 1378 (Miss. 1993), a sales manager of an automobile dealership testified to the NADA value of a vehicle and that "the car was worth a little less as the vehicle had some damage". Deductions for vehicle condition are made on a case-by-case basis.

As Debtor testified the pickup was rusted and in poor condition, an additional deduction is defensible. While admittedly arbitrary, a \$500 deduction based on condition appears equitable. This is consistent with the record and Debtor's testimony that the vehicle is worth around \$4000. Based upon the record made, the Court concludes that the fair market value of the 1987 F-150 pickup is \$4,225.

CAR'S CONDITION

No further deduction for the car's value based on condition is warranted. Although the condition of the car is asserted by Debtor to be less than ideal, the record is insufficient to support such a proposition. Furthermore, the vehicle (with 101,000-102,000 miles) barely qualifies for the \$1025 high mileage deduction for this class of vehicle with 100,001 to 115,000 miles. The deduction for this class of vehicle with 90,001 to 100,000 is only \$550.

Based upon the record made, the Court concludes that the fair market value of the 1990 Chevrolet Lumina is \$5,025.

RULING

WHEREFORE, for the reasons set forth in this ruling, the fair market value of the 1987 Ford F-150 Pickup is \$4,225.

FURTHER, for the reasons set forth in this ruling, the fair market value of the 1990 Chevrolet Lumina Eurosport is \$5,025.

SO ORDERED this 26th day of February, 1997.

Paul J. Kilburg
U.S. Bankruptcy Judge