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DISTRICT II

February 4, 2015

To:

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You are hereby notified that the Court has entered the following opinion and order:

2014AP2294-FT Suburban Motors of Grafton, Inc. v. William T. Gamerdinger
(L.C. # 2006CV10)

Before Brown, C.J., Neubauer, P.J., and Gundrum, J.

Michael E. McMorrow appeals a circuit court order satisfying a judgment lien on real property due to discharge in bankruptcy. He contends that the property did not qualify for such relief under WIS. STAT. § 806.19 (2011-12).¹ Pursuant to a presubmission conference and this court's order of October 15, 2014, the parties submitted memorandum briefs. *See* WIS. STAT. RULE 809.17(1). Upon review of those memoranda and the record, we reverse the order of the circuit court.

In April 2006, a judgment was filed against William T. Gamerdinger. William subsequently inherited a one-third interest in real property located in Grafton. The assignee of

¹ All references to the Wisconsin Statutes are to the 2011-12 version.

the judgment, McMorrow, filed an execution against the property, reflecting the judgment owed. A sheriff's sale was scheduled for March 28, 2013.

Approximately one month before the sheriff's sale was to occur, William transferred his interest in the Grafton property to his brother, Tinsley A. Gamerdinger, in exchange for Tinsley's interest in real property located in Fredonia. William then filed a petition for bankruptcy. In it, he claimed a homestead exemption on the Fredonia property and did not list his transferred interest in the Grafton property as an asset. William received a discharge in bankruptcy on June 24, 2013.

On August 8, 2014, Tinsley, having acquired William's interest in the Grafton property prepetition, applied to the circuit court for a satisfaction of the judgment lien on the property. In response, McMorrow filed a motion to effectively exempt the property from satisfaction on the ground that it was not owned or later acquired by the person discharged in bankruptcy (William), as is required by WIS. STAT. § 806.19(4)(d).

Following a hearing on the matter, the circuit court denied McMorrow's motion and issued an order satisfying the judgment lien. This appeal follows.

“[A] discharge in bankruptcy voids all aspects of all judgments to the extent of the debtor's personal liability.” *In re Spore*, 105 B.R. 476, 478 (Bankr. W.D. Wis. 1989). In order to obtain satisfaction of a judgment lien, however, a party must resort to WIS. STAT. § 806.19.

WISCONSIN STAT. § 806.19 provides in relevant part:

(4)(a) Any person who has secured a discharge of a judgment debt in bankruptcy and any person interested in real property to which the judgment attaches may submit an application for an order of satisfaction of the judgment and an attached order of

satisfaction to the clerk of the court in which the judgment was entered.

....

(d) Upon receipt of a completed application, the clerk shall submit the attached proposed order for signature by a judge after which the clerk shall satisfy each judgment described in the application. *Upon satisfaction, a judgment shall cease to be a lien on any real property that the person discharged in bankruptcy owns or later acquires.* (Emphasis added.)

Statutory interpretation presents a question of law, which this court reviews de novo. *State v. Fischer*, 2010 WI 6, ¶15, 322 Wis. 2d 265, 778 N.W.2d 629. We look first to the language of the statute. *State ex rel. Kalal v. Circuit Court for Dane Cnty.*, 2004 WI 58, ¶45, 271 Wis. 2d 633, 681 N.W.2d 110. If it is clear and unambiguous, the plain language of the statute guides us. *See id.*

Reviewing the language of WIS. STAT. § 806.19, we are persuaded that the statute applies only to satisfy judgment liens attached to real property that the person discharged in bankruptcy owns or later acquires. Here, the Grafton property fails to qualify for such relief, as it was not owned or later acquired by the person discharged in bankruptcy (William) at the time that Tinsley submitted his application for satisfaction. Because the circuit court concluded otherwise, we reverse.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is reversed.

Diane M. Fremgen
Clerk of Court of Appeals