BOOK 9764 PG 523

Main Case

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

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IN RE:	)	
	)	
CHERYL DENISE SICKLE,	)	CASE NO. 394-03456-GCP-7
	)	
Debtor(s)	)	
	)	
	)	
ROBERT H. WALDSCHMIDT, TRUSTEE,	)	
	)	
	)	
Plaintiff	)	
	)	
v.	)	ADVERSARY PROCEEDING
	)	NO. 394-0399A
CHERYL DENISE SICKLE & DONNA SHARPE,	)	
	)	
	)	
Defendants	)	

Attest
A True Copy
Certified this 8-16-95
U. S. Bankruptcy Court
By M. Tweedy
Deputy Clerk

UNITED STATES BANKRUPTCY COURT SEAL

ORDER DENYING DISCHARGE AND AVOIDING FRAUDULENT CONVEYANCE

This matter is before the court upon the complaint filed by the trustee seeking to avoid a fraudulent conveyance, and to deny the discharge of the debtor pursuant to 11 U.S.C. § 727(a). A trial was held on February 14, 1995, at which time the court heard testimony from the defendants concerning the transfer of real property at 210 Thistle Lane, Hermitage, Tennessee, from Cheryl Denise Sickle to Donna Sharpe on April 13, 1994. The court has considered said testimony, together with the stipulations of fact and exhibits which were tendered in this case at trial, and hereby finds that the transfer of property was a fraudulent conveyance pursuant to 11

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U.S.C. § 548, that the fraudulent conveyance was made with intent to hinder, delay and defraud creditors within the meaning of 11 U.S.C. § 727(a)(2), and that the debtor concealed and omitted this transfer from the trustee in voilation of 11 U.S.C. § 727(a)(3), and (4).

The court relies upon the decision of Judge Lundin in In re Peery, 40 B.R. 811 (Bankr. M.D. Tenn. 1984), who referred to the badges of fraud to determine whether intent should be rightfully inferred. The court has considered other cases which were cited in the trustee's brief, concerning the omission of the transfer of real property from the debtor's statements and schedules.

The court finds, as a finding of fact, that there was an absence of consideration for the transfer (or at least an inadequate consideration); the transfer took place approximately forty (40) days before the filing of the petition, when the debtor was already aware that she would have to file a bankruptcy petition; the transfer was from the debtor to her sister, who was not even aware the property was titled in her name until after the transaction had taken place; the debtor was hopelessly insolvent at the time of said transfer, and two collection actions had been pending against her; and the debtor concealed this transfer by not listing it on her petition.

For the reasons set forth above, and for other cause to the court shown;

IT IS HEREBY ORDERED that the transfer of real property at 210 Thistle Lane, Hermitage, Tennessee (a property description of which is attached as Exhibit A) from Cheryl Denise Sickle to Donna Sharpe on April 13, 1994 be, and is hereby set aside, and the real property referred to in Exhibit A is hereby vested in Robert H. Waldschmidt, trustee, free and clear of any right, title or interest of Cheryl Denise Sickle or Donna Sharpe.

RECORDED MEMO
LEGIBILITY OF WRITING IN
THIS DOCUMENT WAS UNSATISFACTORY
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IT IS FURTHER ORDERED that the discharge of Cheryl Denise Sickle be, and is hereby denied, pursuant to 11 U.S.C. § 727(a).

ENTER this ____ day of February, 1995.

FEB 17 1995

GEORGE C. PAINE, II
Bankruptcy Judge

APPROVED FOR ENTRY:

3216 08/16 0101 03CHECK 16.00

ROBERT H. WALDSCHMIDT
Attorney for Trustee
HOWELL & FISHER
Court Square Building
300 James Robertson Parkway
Nashville, TN 37201-1107
615/244-3370

95 AUG 16 PM 2:29
FELIX Z. [illegible] REGISTER
DAVIDSON COUNTY, TN.

IDENTIF. & REFERENCE
0090190

cc: Harry W. Miller
209 10th Avenue, South
Nashville, TN 37203

Walter Parker
209 10th Avenue, South
Nashville, TN 37203

MAIL TO:

- ✓ All creditors and/or parties in interest
- ✓ Debtor(s)
- ✓ Attorney for debtor(s)
- ✓ Trustee (33)+3
- ____ Attorney for trustee
- ____ Attorney for plaintiff/movant
- ✓ Attorney for defendant/respondent
- ____ All parties listed on bottom of order
- ✓ All parties listed in cert. of service
- ____ As stated in order
- ✓ Debtor's employer
- ✓ U.S. Trustee

main case

ALL MAILING TO BE DONE BY:
(NOTE: send copy of routing slip)

INTERNAL ROUTING:

- ✓ Chief Deputy Clerk
- ____ Courtroom Deputy
- ____ Calendar Clerk
- ____ Conversion Clerk
- ____ Financial Clerk
- ✓ Judgment Book (Copy)
- ____ Discharge Clerk

____ Copy to be picked up at front counter by: _____

____ Walk through

- ____ attorney for debtor
- ____ attorney for movant
- ____ trustee/attorney for trustee
- ____ Other: _____

A tract of land in Davidson County, Tennessee, to wit:

Being Unit No. 210 on the Plan of Hermitage Meadows Subdivision, Stage Three, of record in Book 6250, page 300, Register's Office for said County, to which said plan reference is hereby made for a complete legal description.

Being the same property conveyed to Cheryl Denise Sickle by deed from Kerry L. Bodnovich and wife, Luann Bodnovich, or record in Book 7257, page 992, Register's Office for Davidson County, Tennessee.

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EXHIBIT A