

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

DUANE F. BOWMAN and  
BARBARA B. HOWARD,

Defendants.

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ORDER

03-C-0366-C

This is an action brought by the United States to foreclose federal tax liens on certain real property belonging to Duane F. Bowman. Barbara B. Howard is named as a defendant because she claims an interest in the property on which plaintiff seeks to foreclose its liens. Jurisdiction is present. 26 U.S.C. §§ 7402, 7403; 28 U.S.C. §§ 1340, 1345.

The case is before the court on the government's motion for summary judgment. I find from the undisputed facts that the government is entitled to foreclose on the subject property and I will grant its motion.

Although defendant Bowman had an opportunity to respond to the facts proposed by the government, the only objections he made were based on his belief that he did not

have a fair opportunity to be heard at the time the 1982 and 1987 tax deficiencies were reduced to judgment. Despite his belief, he had a full opportunity to be heard on every relevant issue at the time of his trial and a full opportunity to appeal from the jury's verdict. He can no longer maintain that he is not obligated to pay the taxes assessed against him for the 1982 and 1987 tax years.

Because defendant's objections are irrelevant, I find as undisputed all of the facts proposed by the government.

#### UNDISPUTED FACTS

On February 15, 1988 and February 15, 1993, the government assessed federal income taxes against defendant Duane F. Bowman for the 1982 and 1987 tax years. On July 25, 1988 and December 13, 1993, the Internal Revenue Service filed notices of federal tax liens in connection with those assessments.

On July 29, 1999, in Case No. 97-C-0757-C, the United States District Court for the Western District of Wisconsin entered judgment against defendant for his 1982 and 1987 federal tax liabilities. As of that date, defendant's federal income tax liabilities for the 1982 and 1987 years totaled \$755,287.59, plus statutory additions that continued to accrue.

On August 31, 1998, by virtue of three Trustee's Deeds, defendant and his sister, Barbara B. Howard, a resident of McMinnville, Oregon, each acquired a one-half undivided

interest in real property located at 2958 Bowman Circle, in Fitchburg, Dane County, Wisconsin, within the Western District of Wisconsin and described as follows:

Lot 7, Maple Lawn Heights, City of Fitchburg, Dane County, Wisconsin  
Lot 8, Maple Lawn Heights, City of Fitchburg, Dane County, Wisconsin  
Lot 9, Maple Lawn Heights, City of Fitchburg, Dane County, Wisconsin

On December 28, 2001, defendant filed a petition in the United States Bankruptcy Court of the Western District of Wisconsin, seeking relief under Chapter 13 of the Bankruptcy Code. On February 14, 2002, the proceeding was converted to a Chapter 11. The Internal Revenue Service filed a proof of claim in the bankruptcy, showing the liability for the tax assessments for the 1982 and 1987 years totaled \$880,206.27. On February 24, 2003, the Internal Revenue Service filed an amended proof of claim, showing the balance on the liability as \$549,502.66.

On June 23, 2003, the bankruptcy court entered an order granting the United States relief from the automatic stay so that it might commence a lien foreclosure action against the subject property.

## CONCLUSION

Although defendant Bowman did not oppose the government's proposed findings of fact, he has filed a brief in opposition to the foreclosure action, re-arguing the same issues he has raised repeatedly about the allegedly unfair trial at which he was found liable for the

tax deficiencies assessed against by the government. It is too late for him to make those arguments. His tax assessments have been determined. They are not subject to further review. In the absence of any meritorious objections by defendant, the government's motion for summary judgment will be granted.

ORDER

IT IS ORDERED that the motion for summary judgment filed by the United States of America is GRANTED. The United States may submit a form of judgment for the court's signature no later than December 30, 2003.

Entered this 18th day of December, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge