

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

In re

JUDITH K. BAKER,

Debtor.

CLAIRE ANN RESOP,
Chapter 7 Trustee,

Plaintiff-Appellant,

OPINION AND
ORDER

04-C-779-C

v.

PRIMUS FINANCIAL SERVICES,

Defendant-Appellee.

Plaintiff-appellant Claire Ann Resop appeals from an order of the United States Bankruptcy Court for the Western District of Wisconsin, arguing that the bankruptcy court erred in concluding that the security interest of defendant-appellee Primus Financial Services in debtor Judith K. Baker's 2000 Oldsmobile Alero remained perfected under the laws of New Mexico even though debtor had moved to Wisconsin more than four months before

filing her Chapter 7 bankruptcy petition. There are no undisputed facts. This appeal involves only a question of statutory interpretation. Thus, the bankruptcy court's ruling is subject to de novo review. Fed. R. Bankr. P. 8013.

On July 30, 2001, debtor Judith K. Baker executed and delivered a security agreement, granting a security interest in her 2000 Oldsmobile Alero (Vehicle Identification No. 1G3NL5ZT4YC365776) to appellee Primus Financial Services, an automobile financial lending organization. The vehicle was covered by a certificate of title issued by the state of New Mexico on August 25, 2001, and appellee perfected its security interest in the vehicle under the laws of that state.

Debtor relocated to Wisconsin approximately three years ago but did not apply for or obtain a certificate of title in Wisconsin. On February 20, 2004, she filed a Chapter 7 bankruptcy petition. Appellant Claire Ann Resop was appointed trustee of debtor's bankruptcy estate. On May 24, 2004, appellee Primus filed a motion for relief from the stay on the ground that it had a perfected security interest in the vehicle. Three days later, appellant filed an adversary proceeding challenging the status of appellee's security interest. Appellant argued that the security interest was no longer perfected because debtor had relocated to Wisconsin more than four months before filing the Chapter 7 petition and appellee had not perfected its interest in this state. The bankruptcy court granted summary judgment in this adversary proceeding in favor of appellee, concluding that the four-month

rule does not apply to automobiles subject to a certificate of title. This appeal challenges the order granting summary judgment in the adversarial proceeding. Jurisdiction is present. 28 U.S.C. § 158(a); Fed. R. Bankr. P. 8001(a).

OPINION

Wis. Stat. § 342.19(6) provides that “[i]f a vehicle is subject to a security interest when brought into this state, § 409.316 states the rules which apply to determine the validity and perfection of the security interest in this state.” In turn, Wis. Stat. § 409.316(1)(b) states that “[a] security interest perfected pursuant to the law of the jurisdiction designated in § 409.301(1) or § 409.305(3) remains perfected until . . . [t]he expiration of 4 months after a change of the debtor’s location to another jurisdiction.” If the security interest is not perfected in the new jurisdiction within this time, it becomes unperfected. Wis. Stat. § 409.316(2). Appellant reads these provisions to mean that appellee’s interest in the vehicle became unperfected four months after debtor relocated to Wisconsin.

The bankruptcy judge rejected this argument, reasoning that § 409.316(1) applies only to security interests “perfected pursuant to the law of the jurisdiction designated in § 409.301(1) or § 409.305(3),” neither of which is operative in this situation because § 409.301 does not apply to goods covered by a certificate of title and § 409.305 deals with

investment property. Instead, the bankruptcy court looked to Wis. Stat. § 409.303, which provides rules governing perfection of security interests in goods covered by a certificate of title. Specifically, § 409.303 states that “[t]he local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection and the priority of a security interest in goods covered by a certificate of title” Finding that the vehicle in this case is covered by a valid New Mexico certificate of title, the bankruptcy judge concluded that New Mexico law governed perfection. Under the laws of that state, appellee’s security interest is perfected because its lien is noted on the vehicle’s certificate of title. N.M. Stat. § 66-3-201.

Appellant contends that the bankruptcy court’s reasoning renders § 342.19(6) meaningless in violation of the fundamental rule of statutory construction that a court must not interpret statutes to render any part meaningless. However, canons of statutory construction do not come into play unless an answer cannot be found in the plain meaning of the statutory language. In this case, the relevant statutory provisions are an explicit bar to the construction appellant advocates. In proposing an alternate reading of these provisions, appellant simply assumes that § 409.301(1) applies, ignoring the express limitation on which the bankruptcy court relied. § 409.301 begins with the limitation “[e]xcept as provided in § 409.303,” which is the provision governing perfection of good covered by a certificate of title. If this were not clear enough, the corresponding Uniform

Commercial Code comments state that the general rule laid out in § 409.301 “does not apply to goods covered by a certificate of title.”

Second, appellant is simply mistaken that the bankruptcy judge’s holding renders § 342.19(6) meaningless. As noted above, § 342.19(6) refers to § 409.316 as a whole. The limitation that the security interest at issue be subject to either §§ 409.301(1) or 409.305(3) applies only to the first subsection of § 409.316. Notably, § 409.316(4) provides rules for goods covered by a certificate of title issued by the state of Wisconsin. Had debtor complied with Wisconsin’s vehicle registration and title provisions, she would have obtained a Wisconsin certificate of title and subsection 4 would have applied. See Wis. Stat. § 342.05(1) (owner of vehicle subject to state registration requirements must apply for certificate of title); Wis. Stat. § 341.40 (foreign registered vehicles exempt from Wisconsin’s registration requirements only in certain situations not present in this case). In that event, appellee’s security interest would have remained perfected until it became unperfected under the laws of New Mexico; subsection 4 provides that “a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered” unless it had been purchased for value.

Appellant’s only other argument is that “[w]here a statutory interpretation question

involves a conflict between a general and a more specific statute, the more specific statute takes precedent.” Obviously, this canon applies only where the court has a choice between two statutory provisions. For the reasons explained above, relying on § 342.19(6) and 401.316 is not an option; by their own terms, the subsections of § 401.316 do not apply to a security interest in a vehicle subject to a certificate of title issued by a foreign jurisdiction. Because debtor did not apply for a Wisconsin certificate of title, § 401.303 is the only statutory provision that can apply. Accordingly, I will affirm the bankruptcy court’s holding.

ORDER

IT IS ORDERED that the decision of the United States Bankruptcy Court for the Western District of Wisconsin granting summary judgment in favor of defendant-appellee Primus Financial Services in plaintiff-appellant and Chapter 7 trustee Claire Ann Resop’s adversary action challenging the status of appellee’s security interest in debtor Judith K. Baker’s 2000 Oldsmobile Alero is AFFIRMED.

Entered this 31st day of January, 2005.

BY THE COURT:

BARBARA B. CRABB
District Judge