

1980
6/18/80

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

In the Matter of	IN BANKRUPTCY
MARTHA LEE OPRISKO, a/k/a Martha Lee Belles, a/k/a Martha Lee Belles-Oprisko, d/b/a Hart Creek Farms, Ltd.	No. 80-00051 Vol.
GEORGE WILLIAM OPRISKO, JR. d/b/a Hart Creek Farms, Ltd.	No. 80-00052 Vol.
HART CREEK FARMS, LTD.	No. 80-00106 Vol.
Debtors.	

FINDINGS OF FACT,
CONCLUSIONS OF LAW &
ORDER DENYING TURNOVER

At Eau Claire, in said district, this 18th day of June, 1980.

H & D Implement, Inc., having applied to the Court for an order of turnover of one Little Augie Mixer; said matter having come on for hearing before the Court; and the applicant having appeared by John O. Ward, its attorney, and the Trustee having appeared in person; and the Court having taken testimony of the parties and having considered the memorandums filed and the arguments of counsel, and being fully advised in the premises, FINDS:

1. That the above named debtors, George William Oprisko, Jr. and Martha Lee Oprisko, each filed a petition in bankruptcy on the 17th day of January, 1980; and that the above named debtor, Hart Creek Farms, Ltd., duly filed a petition in bankruptcy on the 29th day of January, 1980.

2. That on January 25, 1979, H & D Implement, Inc. sold one LA 9 Augie Mixer to Hart Creek Farms, Ltd. for the sum of \$6,200.00; that \$500.00 was paid down on said Mixer and on the same date two checks were issued to said applicant, one in the sum of \$3,000.00 and the other in the sum of \$2,700.00, being the balance of the purchase price, and that said checks were to be held for two weeks and thirty days respectively.

3. That payment was stopped on Check #943 for \$3,000.00 and payment was refused on Check #944 for \$2,700.00 in that the bank account had been closed.

4. That H & D Implement, Inc. took no security interest at the time of the sale nor did it request any.

5. That thereafter said applicant attempted to obtain a security agreement but none was completed prior to the filing of bankruptcy.

6. That the applicant and seller did commence a civil suit in State Court on November 21, 1979, which was not completed at the time of the bankruptcy.

7. That the Trustee has taken possession of said Mixer and claims the same as part of debtors' estate, free and clear of any claim of the debtors herein and of said applicant.

8. That since no security agreement was taken at the time of sale, or thereafter, it appears that the Trustee is entitled to possession of said Mixer, free and clear of all liens of the applicant herein.

9. That the claim of H & D Implement, Inc. is that of a general creditor in said proceedings.

CONCLUSIONS OF LAW

That an order be entered denying the turnover of the Little Augie Mixer and determining applicant to be a general creditor.

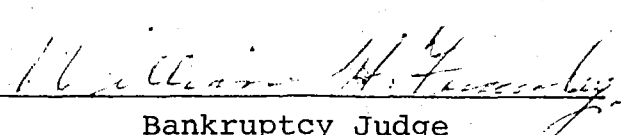
O R D E R

NOW, THEREFORE, IT IS ORDERED:

1. That the application of H & D Implement, Inc. for the turnover of one certain Little Augie Mixer described herein be and the same is hereby denied, and the Trustee takes said Mixer free and clear of all claims of the applicant herein.

2. That the interest of H & D Implement, Inc. herein is that of a general creditor.

BY THE COURT:


Bankruptcy Judge