

11/9/81

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

IN THE MATTER OF:

IN BANKRUPTCY NO.:

JEROME LEO ZICK and
BARBARA LOUISE ZICK,
d/b/a ZICK BUILDING SUPPLY,

80-01208 Vol.

Debtors.

FILED
JAN 9 1981
CLERK
U.S. BANKRUPTCY COURT

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER
RE HOMESTEAD EXEMPTION CLAIM

On August 14, 1980, the above named debtors filed a joint petition under Chapter 7 of the Bankruptcy Code and Peter F. Herrell of Eau Claire, Wisconsin, was appointed Interim Trustee, and thereafter a meeting of creditors was duly held. After the evidence was presented to Mr. Herrell he made a determination denying the homestead exemption claim of the debtors in what is alleged to be the homestead property and fully described in the proceedings. The debtors thereafter filed an appeal to the Court and on November 17, 1980, a hearing on the appeal was held on the debtors' objection to the Trustee's report; and the parties having appeared by their respective counsel, and each of the debtors having been duly sworn, and evidence taken and oral arguments made by counsel, and briefs having been filed with the Court, and after careful consideration of all of the record, arguments of counsel and briefs, and the Court being fully advised in the premises, FINDS:

1. That said debtors duly filed their petition in bankruptcy on August 14, 1980.
2. That Peter F. Herrell was the duly appointed Interim Trustee.
3. That by virtue of the Trustee's report filed on October 14, 1980, he denied the homestead exemption claim as listed on Schedule B-4 for the reason that said property had been abandoned.

4. That from all of the evidence taken and the liberal interpretation of homestead rights as stated in the Wisconsin Supreme Court Decisions it appears that the debtors did not abandon said homestead as found by the Trustee.

5. That it can serve no purpose to specifically itemize all of the facts other than to state that the home was started in 1978 and the debtors moved into said home in August of 1979; that there were domestic problems during the interim and Mrs. Zick moved out in August of 1980 while Mr. Zick was looking for temporary employment in St. Paul, Minnesota.

6. That Mr. Zick occupied the premises from time to time when returning to Wisconsin, and a bed remained on the premises.

CONCLUSIONS OF LAW

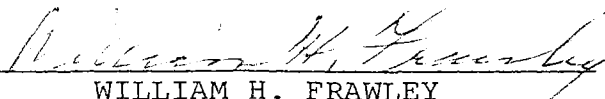
That the Court enter an order determining that the property claimed as exempt by the debtors on Schedule B-4 constitutes the homestead of the parties and was not abandoned under Wisconsin law.

O R D E R

NOW, THEREFORE, IT IS ORDERED: That the claim for homestead exemption claimed by the debtors on Schedule B-4 of their bankruptcy schedules is hereby granted without costs to either party.

Dated: January 9, 1981.

BY THE COURT:



WILLIAM H. FRAWLEY
BANKRUPTCY JUDGE.