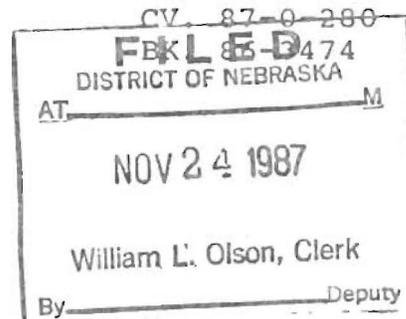


IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

IN THE MATTER OF)
)
CURTIS DEL PARKER,)
)
Debtor.)
)
-----)
GIBREAL AUTO SALES, INC.,)
)
Plaintiff,)
)
v.)
)
CURTIS PARKER, et al.,)
)
Defendants.)
-----)



MEMORANDUM AND ORDER

This matter is before the Court on Gibreal Auto Sales, Inc.'s (hereinafter Gibreal) appeal of the Bankruptcy Court's order of April 6, 1987. The Bankruptcy Court overruled Gibreal's motion to lift the automatic stay pursuant to 11 U.S.C. § 362 (Filing No. 1).

Relief from the automatic stay is provided "for cause," including "lack of adequate protection of an interest in property of such party in interest." 11 U.S.C. § 362(d). The Bankruptcy Court found that the interest of Gibreal Auto Sales in a 1981 Corvette was adequately protected.

This Court may review the Bankruptcy Court's legal conclusions *de novo* but the Bankruptcy Court's findings of fact may not be set aside unless clearly erroneous. Bankr.R. 8013, *Wegner v. Grunewaldt*, 821 F.2d 1317, 1320 (8th Cir. 1987); *In re Martin*, 761 F.2d 472, 474 (8th Cir. 1985). In the Eighth Circuit, the question of adequate protection is a question of

fact and is to be reviewed under the "clearly erroneous" standard. *In re Martin*, 761 F.2d at 474. Further, a decision to lift the automatic stay under 11 U.S.C. § 362 rests within the sound discretion of the Bankruptcy Judge and will not be disturbed absent an abuse of discretion. *In re MacDonald*, 755 F.2d 715, 716-17 (9th Cir. 1985), *Matter of Holtkamp*, 669 F.2d 505, 507 (7th Cir. 1982).

This Court has reviewed the record on appeal and finds no abuse of discretion by the Bankruptcy Court. The Bankruptcy Court's finding that Gibreal's interest was adequately protected is not clearly erroneous. The debtor presented competent evidence that he possessed equity in the property and that the vehicle was necessary for an effective reorganization.

Debtor also argues that the appeal has been rendered moot by the confirmation of a reorganization plan. In light of its finding, the Court need not address that issue. Accordingly,

IT IS ORDERED that the Bankruptcy Court's decision of April 6, 1987, is hereby affirmed.

DATED this 24th day of November, 1987.

BY THE COURT:



LYLE E. STROM, Chief Judge
United States District Court