

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF) CASE NO. BK01-81050
) A01-8096
SHANE LEE BENNETT and)
ROBIN MARIE BENNETT,)
) Chapter 12
_____) DEBTOR(S))
) Filing No. 20, 23
GOTHENBURG STATE BANK &)
TRUST COMPANY,)
)
Plaintiff(s))
vs.) **ORDER**
)
GREENPOINT CREDIT CORP.,)
SHANE LEE BENNETT, and)
ROBIN MARIE BENNETT,)
) DATED: SEPTEMBER 5, 2002
_____) Defendant(s)) HEARING DATE: July 30, 2002, at 9:30

Before a United States Bankruptcy Judge for the District of Nebraska regarding **Motion to Reconsider** filed by **GreenPoint Credit Corp.**

APPEARANCES

Donald Furlow: GreenPoint Credit Corp.
Steven Vinton: Gothenburg State Bank
P. Stephen Potter: Shane and Robin Bennett

IT IS ORDERED:

On or about May 6, 2002, at Filing No. 18 and 19, the Court entered a Memorandum and Order determining that Gothenburg State Bank holds a perfected lien in the debtors' home which has become a fixture permanently attached to the real estate, and such lien takes priority over that of GreenPoint Credit Corp. Thereafter, at Filing No. 20, GreenPoint Credit Corp. filed a Motion to Reconsider which the Court will treat as a motion to alter or amend the judgment. That motion to reconsider was argued on July 30, 2002. On August 9, 2002, the Nebraska Supreme Court ruled in Green Tree Servicing Corporation v. Sutton, 264 Neb. 533, that a creditor that obtains a lien on a manufactured home by noting such lien on the title to the manufactured home retains such lien even if the manufactured

home is affixed to real estate. The court further ruled that no fixture filing under the Uniform Commercial Code Article 9 is required.

This decision clarifies Nebraska law on the issue and requires that the undersigned vacate the Memorandum and Order entered on May 6, 2002. Such Memorandum and Order are hereby vacated.

GreenPoint Credit Corp., therefore, holds a first priority lien in the manufactured home which is the subject matter of this adversary proceeding by virtue of the notation of its lien on the title to the manufactured home.

At the hearing on the motion to alter or amend the judgment, the parties requested the court to make a determination of the value of GreenPoint's interest. From evidence previously submitted, but not dealt with in the Memorandum and Order of May 6, 2002, I conclude that the value of GreenPoint's interest, and therefore the value of its lien, is the market value of the home if severed from the real estate and moved off the premises. That market value is \$44,000.

Separate judgment shall be entered.

BY THE COURT:

/s/Timothy J. Mahoney
Chief Judge

Notice given by the Court to:

Steven Vinton, 416 10th Street, P.O. Box 208,
Gothenburg, NE 69138-1669
P. Stephen Potter, Box 348, Gothenburg, NE 69138
*Donald Furlow, 100 First Westroads Bank Building,
10855 West Dodge Road, Omaha, NE 68154-2666
Richard Lydick, Chap. 12 Trustee
United States Trustee

Movant (*) is responsible for giving notice of this journal entry to all other parties not listed above if required by rule or statute.

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ROBIN MARIE BENNETT,)
) Chapter 12
DEBTOR(S))
) Filing No. 20, 23
GOTHENBURG STATE BANK &)
TRUST COMPANY,)
)
Plaintiff(s))
vs.) **JUDGMENT**
)
GREENPOINT CREDIT CORP.,)
SHANE LEE BENNETT, and)
ROBIN MARIE BENNETT,)
) DATED: SEPTEMBER 5, 2002
Defendant(s)) HEARING DATE: July 30, 2002, at 9:30

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Steven Vinton: Gothenburg State Bank
P. Stephen Potter: Shane and Robin Bennett

IT IS ORDERED:

1. The Memorandum and Order of May 6, 2002, Filing No. 18 and Filing No. 19, are vacated.
2. GreenPoint Credit Corp. has a first priority lien in the manufactured home owned by the debtors.
3. The value of such lien is \$44,000.

BY THE COURT:

/s/Timothy J. Mahoney
Chief Judge

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