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Res Judicata of Judgment Creditor's Claim

NOTES AND COMMENTS

BANKRUPTCY

RES JUDICATA OF JUDGMENT CREDITORS' CLAIM

Claimant seeks to establish a claim based upon a judgment obtained against a bankrupt in the U.S. District Court for Southern California for the value of raw gems fraudulently procured and converted by the bankrupt. After default judgment and before bankruptcy, the bankrupt contested the value of the gems at a hearing ordered by the district court, which found the value to be as alleged. No appeal was taken or review had. After the voluntary petition in bankruptcy, the trustee was authorized to attempt to have the judgment set aside. This he did, claiming that fraud had been practiced on the district court by claimant in regard to the value of the gems. The motion to set aside was dismissed for lack of proof. In bankruptcy, the referee disallowed the claim for fraud. The district court allowed the claim, holding that the issue of fraud in procuring judgment in the California court was res judicata. On appeal from reversal by U.S. Circuit Court of Appeals for the 10th Circuit *held*: Claim allowed; the issue of fraud was res judicata, which doctrine is fully applicable in a federal court sitting in bankruptcy. *Heiser v. Woodruff*, 66 S. Ct. 853 (1946).

Only those creditors' claims can be proved and discharged in bankruptcy which are provided for in the Bankruptcy Act,[1] and since it is settled that the merger of a claim into a judgment does not affect its nature so far as provability in bankruptcy is concerned,[2] it is necessary in each instance of a judgment claim for the court to examine into the nature of the obligation underlying the judgment. If the original obligation is of the type provable in bankruptcy, the judgment creditor's claim may be allowed. Although of a provable character, the judgment may be attacked as invalid due to want of jurisdiction by the court rendering it over (a) the parties in the action, or (b) the subject matter involved;[3] and as a claim in bankruptcy, a judgment may also be collaterally attacked as having been obtained by fraud or collusion.[4]

Pepper v. Litton,[5] although holding that the issue of fraud had

1. 52 Stat. 840 §§ 17, 63 (1938), 11 U.S.C.A. §§ 35, 103 (Supp. 1945), Wetmore v. Markoe, 196 U.S. 68 (1904); Lesser v. Gray, 236 U.S. 70, 74 (1915).
2. Pepper v. Litton, 308 U.S. 295 (1939); Boynton v. Ball, 121 U.S. 457 (1887).
3. Thompson v. Whitman, 18 Wall. 457 (U.S. 1873); Consolidated Iron & Steel Co. v. Maumee Iron & Steel Co., 284 Fed. 550 (C.C.A. 8th, 1922).
4. In Re Thompson, 276 Fed. 313 (W.D. Pa. 1921); In Re Stucky Trucking & Rigging Co., 243 Fed 287 (N.J. 1917); In re Continental Engine Co., 234 Fed. 58 (C.C.A. 7th, 1916); Chandler v. Thompson, 120 Fed. 940 (C.C.A. 7th, 1902).
5. 308 U.S. 295 (1939).

not been litigated,[6] had been interpreted as extending the equity jurisdiction of bankruptcy courts to matters within the scope of the doctrine of res judicata.[7] This was due to the statement that, assuming the claimant's judgment represented a valid underlying obligation, the bankruptcy court might subordinate the claim to those of other creditors because of the fiduciary relationship in which the claimant stood as owner of the bankrupt one-man corporation.[8] The principal case precludes the reconsideration of the issue of fraud or collusion[9] where it has been previously litigated between the same parties on the merits.[10]

CONFLICT OF LAWS

THE ACCUMULATION OF CONTACT POINTS THEORY

Defendants, An Indiana partnership, indebted to the plaintiff, doing business in Illinois, agreed to make a cash payment and settle the balance of an open account with a note payable in periodic installments.

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6. Pepper v. Litton, 308 U.S. 295, 302 (1939). The opinion also stated that the trustee could collaterally attack a judgment on grounds of fraud or collusion only in the absence of a valid plea of res judicata. Id. at 306.
7. In re Noble, 42 F. Supp. 684 (Colo. 1941), reversed in Beneficial Loan Co. v. Noble, 129 F. (2d) 425 (C.C.A. 10th, 1942). See Mr. Justice Rutledge, concurring in the principal case at 860; 3 Collier, Bankruptcy (14th Ed.) p. 1800. Contra: In re Redwine, 53 F. Supp. 249 (N.D. Ala. 1944).
8. The court reasoned that since the Bankruptcy Act, 52 Stat. 840 § 57 k. (1938), 11 U.S.C.A. § 93 k. (1943) provided that "Claims which have been allowed may be reconsidered for cause and reallowed or rejected in whole or in part, according to the equities of the case . . . " that such disallowance or subordination in the light of equitable considerations may be made originally.
9. Following an understandable tendency of courts of equity jurisdiction charged with the duty of marshalling the assets of a debtor and distributing them equitably among his bona fide creditors; cf. In re Mallory, 16 Med. Cas. 549, No. 8,991 (Nev. 1871).
10. "But we are aware of no principle of law or equity which sanctions the rejection by a federal court of the salutary principle of res judicata, which is founded upon the generally recognized public policy that there must be some end to litigation and that when one appears in court to present his case, is fully heard, and the contested issue is decided against him, he may not later renew the litigation in another court." Principal case at p. 856. Compare the language of the District Court of Massachusetts in Ex parte O'Nield, 18 Fed. Cas. 714, 715, No. 10,527 (Mass. 1867) in refusing to reduce a judgment claim based on damages challenged as excessive, "Where the court rendering judgment has jurisdiction, and there has been no fraud and no preference, no one can examine into the consideration of a judgment, and show by evidence, outside of the record, that the judgment ought not to have been rendered, or not for so large a sum."

    The similar English view is asserted In re Howell, 84 L.J. 1399, 1400 (K.B. 1915). "The working rule is that the Registrar can go behind a judgment, where it is a judgment by default or compromise. He ought not to go behind it, when the judgment has been given in open court against a person who is represented."