

306 B.R. 366
United States Bankruptcy Court,
S.D. Alabama.

In re Steve Cardell LOTT, Vernessa
Darnette Lewis Lott, Debtors.

No. 01-14137.

|
Jan. 24, 2002.

Synopsis


Background: Chapter 7 trustee objected to debtor-wife's claim of a \$5,000.00 Alabama homestead exemption in a residence of which debtor-husband was the fee owner and debtor-wife was not.

Holding: The Bankruptcy Court, [Margaret A. Mahoney](#), Chief Judge, held that the inchoate interest of a spouse who is not a fee owner is not protected by the Alabama homestead exemption and no exemption can be claimed.

Objection sustained and exemption disallowed.

West Headnotes (1)

[1] **Homestead**  [Ownership, Estate, or Interest in Property in General](#)

Inchoate interest of a spouse who is not a fee owner of the homestead in question is not protected by the Alabama exemption statute and no exemption can be claimed.  [Ala.Code 1975, § 6-10-2](#).

[1 Cases that cite this headnote](#)




Attorneys and Law Firms

*366 [Frances Hollinger](#), Fairhope, AL, for Trustee.


[Ross Holladay](#), Mobile, AL, for Debtors.

ORDER SUSTAINING TRUSTEE'S OBJECTION TO DEBTOR VERNESSA LOTT'S HOMESTEAD EXEMPTION

[MARGARET A. MAHONEY](#), Chief Judge.

This case is before the Court on the Trustee's objection to Vernessa Lott's *367 claim of homestead exemption. The Court has jurisdiction to hear this matter pursuant to  [28 U.S.C. §§ 157](#) and  [1334](#) and the Order of Reference of the District Court. This matter is a core proceeding pursuant to  [28 U.S.C. § 157\(b\)\(2\)](#) and the Court has the authority to enter a final order. For the reasons indicated below, the Court is sustaining the trustee's objection.

FACTS

The debtors filed a chapter 7 bankruptcy case on August 17, 2001. In their original bankruptcy schedules, they claimed a \$5,000 exemption for their homestead at 1708 Carlisle Drive East in Mobile, AL pursuant to  [Ala.Code § 6-10-2 \(1975\)](#). On October 15, 2001, the debtors amended their schedules and, among other things, claimed an additional \$5,000 exemption in their homestead.

Mr. Lott is the fee owner of the homestead. His wife, Vernessa, is not a fee owner of the property.

LAW

The trustee objected to the Lotts claiming a \$5,000 exemption for Vernessa Lott's interest in the property. The trustee argues that the interest does not rise to the level of an interest protected by the Alabama exemption statute. The debtor argues that Ms. Lott has an interest in the property as Mr. Lott's wife and her signature is required to sell the property. Therefore the interest is one that the Alabama exemption law protects.

This Court issued a ruling in a nearly identical situation in August 2001. In the Cassity case, the Court ruled that the inchoate interest of a spouse who is not a fee owner is not protected by the Alabama exemption statute and no exemption can be claimed. See *In re Cassity*, Order dated August 3, 2001 (Bankr.S.D.Ala.2001). The Court adopts the reasoning of that ruling which is attached.

IT IS ORDERED that the trustee's objection to Vernessa Lott's homestead exemption is SUSTAINED and the exemption is DISALLOWED.

All Citations

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