

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE:)
)
CAROLYN ROBERTS HORECKER,)
)
Debtor.)
)
KNIGHTSBRIDGE WINE SHOPPE, LTD.,)
)
Plaintiff-Appellee)
)
vs.) CIVIL NO. 94-4162-JLF
)
CAROLYN ROBERTS HORECKER,) (BK 92-41158/ADV. 93-4073)
)
Defendant-Appellant.)

OPINION

FOREMAN, District Judge:

This matter is before the Court on an appeal from the bankruptcy court's June 22, 1994, order which allowed the objections of Knightsbridge Wine Shoppe and denied the debtor a discharge in bankruptcy pursuant to 11 U.S. C. § 727(a). The bankruptcy court's order was entered in a case or proceeding referred to the bankruptcy judge under 28 U.S. C. § 157 (1988). Thus, this Court has jurisdiction to hear the appeal under 28 U.S.C. § 158 (1988).

The parties have requested oral argument. However, the Court finds that the facts and legal arguments are well-presented in the parties' briefs and, therefore, oral argument is unnecessary pursuant to Bankruptcy Rule 8012.¹

¹Rule 8012 provides that oral argument shall be allowed in all cases unless the district judge or the judges of the bankruptcy appellate panel unanimously determine after examination of the briefs and record, or appendix to the brief, that oral argument is not

I. ANALYSIS

The bankruptcy court's order denying the debtor a discharge was entered following a two-day hearing on Knightsbridge Wine Shoppe's complaint objecting to the debtor's discharge. This appeal questions two evidentiary rulings made by the bankruptcy court during that hearing.

The first issue relates to the bankruptcy court's decision to allow Knightsbridge to reopen its case-in-chief to present additional testimony regarding its standing as a creditor. Knightsbridge had rested its case without presenting any evidence of its status other than the debtor's bankruptcy schedules listing Knightsbridge as a creditor. As a result, the debtor moved for entry of judgment in her favor, arguing that Knightsbridge had failed to establish standing as required by 11 U.S.C. § 727(c)(1) (1988) (which provides that only "[t]he trustee, a creditor, or the United States trustee may object to the granting of a discharge under subsection (a) of this section.").

Although Knightsbridge contended that the bankruptcy schedules themselves were prima facie evidence of its creditor status, see In re Vahlsing, 829 F.2d 565, 566 (5th Cir. 1987), the debtor argued that a more recent bankruptcy court decision held that the schedules by

needed. . . .

Oral argument will not be allowed if (1) the appeal is frivolous; (2) the dispositive issues or set of issues has been recently authoritatively decided; or (3) the facts and legal arguments are adequately presented in the briefs and record and the decisional process would not be significantly aided by oral argument.

Bankruptcy Rule 8012.

themselves were insufficient evidence to establish standing. In re James, 166 B.R. 181, 183-84 (Bankr. M.D. Fla. 1994). The bankruptcy court resolved the issue by granting Knightsbridge's request to reopen the case to present direct evidence of its creditor status.

A trial court "is invested with broad, discretionary powers in allowing a party to reopen its case." United States v. Green, 757 F.2d 116, 119 (7th Cir. 1985); see also Continental Sand & Gravel, Inc. v. K & K Sand & Gravel, Inc., 755 F.2d 87, 92 n.6 (7th Cir. 1985). Where evidence is both relevant and admissible, a trial court has the authority to allow a party to present evidence that was omitted from the party's case-in-chief, "as long as the court's control of the order of proof worked no prejudice against" the opposing party. United States v. Papia, 560 F.2d 827, 849 (7th Cir. 1977). In this case, it is clear that the additional evidence presented by Knightsbridge was both relevant and admissible. The only question, therefore, is whether the debtor suffered any prejudice from the bankruptcy court's decision allowing Knightsbridge to reopen its case to add the testimony.

The debtor has made no showing of prejudice whatsoever. Rather, her entire argument rests upon the fact that Knightsbridge had ample opportunity to present such evidence in its case-in-chief but had failed to do so. Under these circumstances, the Court finds that the bankruptcy court did not abuse its discretion in allowing Knightsbridge to present the additional testimony.

The debtor next argues that the bankruptcy court abused its discretion in limiting the debtor's cross-examination of the witness who testified as to Knightsbridge's status as a creditor. Johnson Ho,

president of Knightsbridge, testified on direct examination as to the basis for its claim against the debtor and the principal amount of the indebtedness. On cross-examination, the debtor attempted to inquire in further detail as to the exact amount of the debt. In sustaining Knightsbridge's objection to this protracted inquiry, the bankruptcy court stated: "This is not a claim hearing. I'm satisfied that there is a claim, and I think that's what we needed." Report of Proceedings, at 250.

As the Seventh Circuit has recognized, "[i]t is well-established that [a trial court] has 'wide discretion in managing cross-examination and ruling on the admissibility of evidence.'" United States v. Dillard, 43 F.3d 299, 305 (7th Cir. 1994) (quoting United States v. Glecier, 923 F.2d 496, 503 (7th Cir.), cert. denied, 112 S.Ct. 54 (1991)). The debtor attempts to establish an abuse of discretion by arguing that she should have been allowed to examine the witness at length because

Ho's testimony was not supported by any documentation, and, importantly, Ho's testimony was the only evidence offered by Knightsbridge in support of standing. Moreover, since the Debtor's alleged obligations to Knightsbridge were, according to Johnson Ho, in the nature of a personal guaranty, it was certainly appropriate for the Debtor to examine Johnson Ho at length concerning sums due from a principal obligor.

Appellant's Brief, at 7.

Knightsbridge certainly does not dispute the importance of the witness or the debtor's right to cross-examine the witness regarding issues relevant to the proceedings. Thus, there is no question that the debtor would be entitled to cross-examine the witness regarding the

existence of the debt. However, as both Knightsbridge and the bankruptcy court have pointed out, the exact amount of the debt was not relevant to those proceedings. The bankruptcy court, therefore, did not abuse its discretion in curtailing further inquiry into the amount of the debt.

A different result would be in order if the debtor's line of inquiry had been directed towards proving that the debt was, in fact, nonexistent. However, the debtor made no such argument either before the bankruptcy court or in this appeal. Therefore, this Court must conclude, as did the bankruptcy court, that the cross-examination was aimed at establishing the amount of the debt, a fact that was irrelevant to the proceedings.

II. SUMMARY

For the foregoing reasons, the Court hereby AFFIRMS the bankruptcy court's June 22, 1994, order in favor of plaintiff-appellee Knightsbridge Wine Shoppe and against defendant-appellant Carolyn Roberts Horecker. The Clerk of the Court is directed to enter judgment accordingly.

IT IS SO ORDERED.

DATED: March 6, 1995

/s/ James L. Foreman
DISTRICT JUDGE