IN THE COURT OF APPEALS OF IOWA

No. 1-568 / 91-710

FILED
APR 28 1992
CLERK SUPREME COURT

FARM CREDIT BANK OF OMAHA, A Corporation,

Plaintiff-Appellee,

vs.

MARVIN PETERSON and DELORIS J. PETERSON, Husband and Wife,

Defendants-Appellants,

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HOUGHTON STATE BANK,

Defendant.

Appeal from the Iowa District Court for Montgomery County, James M. Richardson, Judge.

Property owners appeal district court's rejection of homestead claim. **AFFIRMED.**

C. R. Hannan of Perkins, Sacks, Hannan, Reilly and Petersen, Council Bluffs, for appellants.

Stephen H. Krohn of Smith, Peterson, Beckman & Willson, Council Bluffs, for appellee.

Considered by Oxberger, C.J., and Donielson and Schlegel, JJ.

DONIELSON, J.

Marvin and Deloris Peterson have resided on a forty-acre tract of land since 1950. Marvin's parents owned the property and Marvin farmed it pursuant to an oral crop share lease agreement until 1983. In 1974, Marvin's father died and his wife, Stella, became the sole owner of the property.

In 1981, Marvin and Deloris Peterson executed a promissory note to the Farm Credit Bank of Omaha (the bank). The note was not repaid, and the bank obtained a judgment against the debtors. In December 1983, Stella died, leaving the property to Marvin and his two sisters as tenants in common. Eventually, the bank sought to execute on Marvin's one-third interest in the subject property to satisfy the debt. On March 6, 1991, the Petersons filed a notice of homestead concerning the property seeking to quash execution, and the bank responded by filing an objection to the notice of homestead. Following a hearing, the district court ruled the homestead claim of the Petersons would not bar the bank's execution on the property. The Petersons have appealed.

Our scope of review in this law action is for the correction of errors at law. Iowa R. App. P. 4. We are bound by the trial court's factual findings if they are supported by substantial evidence. Iowa R. App. P. 14(f)(1). Having failed to request the trial court enlarge or amend its findings, the Petersons have waived all issues

on appeal but the sufficiency of the evidence to sustain the trial court's findings. See Iowa R. Civ. P. 179(b); Estate of Grossman, 373 N.W.2d 113, 114 (Iowa 1984).

The record clearly establishes the Petersons executed the promissory note, upon which the bank obtained its judgment, prior to their acquisition of the subject property. We find the trial court's findings supported by substantial evidence and affirm.

The costs of this appeal are taxed to the Petersons.

For all the reasons stated, the judgment of the district court is affirmed.

AFFIRMED.

Schlegel, J., concurs; Oxberger, C.J., concurs in result only.

OXBERGER, C.J. (specially concurring)

I concur in the result only.