FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 9-438 / 88-1402

428

JIM WHITE AGENCY, INC.

Appellant,

vs.

STONERIDGE CONDOMINIUM ASSOCIATION,

Appellee.

Appeal from the Iowa District Court for Polk County, Rodney J. Ryan, Judge.

Appellant challenges the district court's adjudication of law points which held that his claim for an unpaid account of $6,708.50 was barred by a prior ruling in the United States Bankruptcy Court. **REVERSED AND REMANDED.**

Harvey L. Harrison, Des Moines, for appellant.

Michael P. Mallaney and Steven H. Shindler, of Wimer, Hudson, Flynn & Neugent, P.C., Des Moines, for appellee.

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

SCHLEGEL, J.

Appellant challenges the district court's adjudication of law points which held that his claim for an unpaid account of $6,708.50 was barred by a prior ruling in the United States Bankruptcy Court. Appellant maintains that the trial court erred because the bankruptcy order operated only against the debtor in bankruptcy, not a separate corporation set up by that debtor.

Jim White Agency sold insurance coverage to the Stoneridge Condominium Association (Association). The Association's outstanding unpaid account was $6,708.50. The Association was established as a nonprofit corporation under Iowa Code chapter 504A for the purpose of operating a homeowners' association for the Stoneridge Condominiums. The condominiums were developed by a partnership known as the "Eleven Hundred Fiftieth Street Development." The officers and directors of the Association were also principals in the partnership.

Only the partnership filed bankruptcy. During the course of its bankruptcy, the trustees desired to sell the partnership's twenty-one units located within the forty-unit condominium. Judge Stageman approved the sale on October 11, 1985, and ordered that the property be sold clear of all liens, including that of the Jim White Agency which had sold certain policies directly to the partnership.

On December 14, 1987, the agency filed its petition in district court seeking payment by the Association of the unpaid account for those separate policies sold directly to the Association. The Association alleged by way of affirmative defense that the bankruptcy order barred the claim. Upon defendant's motion for an adjudication of law points, the district court agreed.

The district court reasoned that the business activities of the partnership and the corporation were so intricately intertwined that the corporate existence depended almost wholly upon the viability of the partnership; and, that the reorganization of the debtor partnership directly affected the continued existence and status of the otherwise shell corporation. As such the district court believed that the order applied equally against the Association as it did to the partnership named as the debtor in bankruptcy.

On appeal, the agency argues that it is seeking payment for separate policies that were sold to the Association. According to the agency, nothing in the Bankruptcy Act creates a situation in which a debtor, not related to the bankrupt, may escape debts not scheduled in the bankruptcy proceedings. Nothing in Judge Stageman's order of October 11, 1985, purports to effect the claims against the association.

The action below was tried at law. Our scope of review is on assigned error only. Iowa R. App. P. 4.

Appellant contends the appellee, as a corporation, should be liable for its own debts that arose from the insurance contracts issued by appellant. We have said that central to corporate law is the concept that a corporation is an entity separate and distinct from its shareholders. Northwestern National Bank of Sioux City v. Metro Center, Inc., 303 N.W.2d 395, 398 (Iowa 1981). The officers and directors in the Stoneridge Condominium Association were also partners in the bankrupt Eleven Hundred Fiftieth Street Development. Even if this court assumes that the officers and directors were also the only stockholders in Stoneridge, it cannot avoid its liability on the insurance contracts based on the partnership bankruptcy. The separate-entity concept of the corporation may be disregarded under exceptional circumstances, for example, where the corporation is a mere shell, serving no legitimate business purpose, and used primarily as an intermediary to perpetuate fraud or promote injustice. Id. Generally one who has created a corporate entity will not be permitted to disregard it to gain an advantage, which under it would be lost. Inn Operations, Inc. v. River Hills Motor Inn Co., 152 N.W.2d 808, 815 (Iowa 1967). The fact a corporation assumes a limited area of work that another entity or individual can do does not detract from its own capabilities or responsibility as a juridical personality. Wooddale, Inc. v. Fidelity and Deposit Co. of Maryland, 378 F.2d 627, 632 (1967).

There is no evidence that Stoneridge was created as a front to the partnership or to perpetrate any type of fraud. The corporation in this instance seems to have been created to perform certain responsibilities associated with the construction and sale of the condominiums. The appellant sold the corporation and the partnership separate insurance, and throughout all of these transactions the corporation remained a separate legal entity. Barring exceptional circumstances a corporation must remain a separate entity. This is also the case where the district court has allowed the creators of the corporation to gain an advantage--the advantage of avoiding liability--to the detriment of the appellant. There is nothing in the order of the bankruptcy court which suggests that Stoneridge was to be protected along with the partnership. Barring such an order, and given the "separate--entity" nature of a corporation, the appellant must be allowed to proceed with its claim against the Stoneridge Condominium Association. The order of the district court is reversed and remanded. The costs of this appeal are to be assessed against the appellee.

REVERSED AND REMANDED.