

Not intended for publication

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

IN RE

GARY W. WILEY
DEBORAH K. WILEY

CASE NO. 97-14336

Debtors.

Chapter 13

MEMORANDUM OPINION AND ORDER RE
OBJECTION TO CONFIRMATION FILED BY
THE BANK OF SHARON

At issue in the case at bar is the value of a twenty-nine-year-old mobile home and the two lots on which it sits that the debtors, Gary and Deborah Wiley, (“Wileys”), own. The debtor has proposed a value of \$15,000 be placed on the property, while the Bank of Sharon, (“Bank”), has proposed \$22,500. The Court conducted a hearing on the Bank’s Objection to Confirmation on May 8, 1998. FED. R. BANKR. P. 9014. Pursuant to 28 U.S.C. § 157(b), this is a core proceeding. This memorandum opinion and order shall serve as the Court’s findings of facts and conclusions of law. FED. R. BANKR. P. 7052.

I. FINDINGS OF FACT

The debtors filed their Chapter 13 petition on November 6, 1997. On Schedule A of that petition, the debtors listed a mobile home and lot located at 515 Beach Road, Springville, TN, as one of their real property holdings.¹ The current market value of the Beach Road property was listed on the debtors’ schedules as \$8,000.00. Schedule A also disclosed that the property was pledged as collateral on a \$4100 loan from First State Bank in Kenton, TN. On Schedule C of the debtors’ petition, the Wileys proposed to take a \$7500 exemption in the trailer and the lot pursuant to T.C.A. § 26-2-301. Other schedules attached to the Wileys’ petition reflected a monthly household income of \$1275.00 and monthly expenses of \$1059.00. The Bank of Sharon was listed as an unsecured creditor with a \$6000.00 claim.

¹ The debtors also listed a house and lot in Sharon, TN, on Schedule A, but that property has since been surrendered.

At the hearing on the Bank's objection, Mr. Wiley testified that he and his wife had purchased the 515 Beach Road property four or five years ago for \$2000.00. At that time it was undeveloped. The property consists of two lots and is triangular in shape. On the side of the property which faces the road, the lots measure one-hundred feet each. The lots extend back from the road about two-hundred-twenty feet each. This property is located in a primarily recreational community at Kentucky Lake. The area is mostly residential with improvements ranging from small weekend cottages to expensive waterfront homes. According to the appraisers' testimony at the hearing, the majority of the residences in this area are mobile homes. According to Mr. Wiley, the debtors purchased the subject mobile home for \$4,000.00 shortly after buying the land. To make the trailer inhabitable, the Wileys' obtained connections for water and electricity. The mobile home is a two bedroom, one bath dwelling with a porch/deck. The road the home is located on is an access road to the launching area for the lake.

The debtors' Chapter 13 plan was filed on December 23, 1997. In the plan, the debtors proposed to make a \$175.00 monthly payment on the trailer and lots to First State Bank and a \$20 monthly payment on a reaffirmed Sears credit card debt. The proposed life of the plan was shown to be thirty-six (36) months. The percentage to be paid to unsecured creditors was not set forth in the plan; however, after the payments to First State Bank and Sears are made, only \$21.00 will be available for monthly payments on unsecured debts.

On January 5, 1998, the Bank filed an objection to confirmation of the Wileys' Chapter 13 plan. In its objection, the Bank alleged that the debtors had \$25,000 of equity in real estate and, as a result, the percentage to be paid to unsecured creditors should be one-hundred percent. Both the debtors and the Bank hired appraisers to assess the value of the land and introduced the results of such investigation at the hearing.

The first appraisal that was presented to the Court was conducted by Mickey Mooney Appraisal Service in Paris, TN. Mooney had been hired by the Bank to inspect and assess the property. After making his investigation, Mooney estimated the market value of the property to be \$22,500.00. The property was appraised as in average condition for its age, with some deferred maintenance and no major defects. Mooney testified that in order to arrive at his figure of \$22,500, he looked at six other mobile homes of the same age, size and condition as the Wileys'. All of the comps were in the same general area as the debtor's and were located on approximately the same size lots. In his appraisal report, Mooney wrote:

All comps are closed sales of similar weekend use mobile homes in the subjects [sic]

lake market area. The adjusted sales ranged from a low of [\$]15500 to a high of [\$]24350 with a median of [\$]21358. After excluding the high and low end it is my opinion that the sales comparison indicates a value of 22,500 for the subject.

In arriving at the estimated values for the comps, Mooney made adjustments, both upward and downward, to reflect the differences between the comps and the Wileys' trailer. Mooney appraised the two lots on which the Wileys' mobile home sits for \$8,000.00.

The second appraisal presented to the court was conducted by W.R. Flowers from Paris, TN, who had been hired by the Wileys. After conducting his investigation, Flowers concluded that the trailer and the two lots were worth \$15,000 (Flowers concurred with Mooney's \$8,000 land value). Like Mooney, Flowers looked to other mobile homes in the same area to arrive at his appraisal. The comps used by Flowers were around the same age and size as the Wileys. The lots on which the comps were located, however, were smaller than the Wileys' lots and were purchased within the last eighteen months for significantly less than the \$8000 value both Mooney and Flowers placed on the Wileys' lots. Flowers used only three comps, as opposed to Mooney's six, and all of his comps were low-end homes. Their values were listed at \$13,000, \$13,500, and \$15,000. No high-end trailers were used by Flowers in reaching his conclusion of \$15,000. Unlike Mooney, Flowers did not make any adjustments to the values of the comps in relation to the Wileys' trailer, even though in his report Flowers wrote that the Wileys' lots were of superior location.

II. CONCLUSIONS OF LAW

Because the debtor and the Bank are diametrically opposed on the value to be placed on the debtors' mobile home and lots, the Court has the task of deciding which appraisal better represents the true worth of the Wileys' Beach Road property. In many instances this is not an easy task, but in the case at bar, the Court has no trouble in adopting the Bank's appraisal as reflecting the true value of the debtors' property. Mooney used six comps. Flowers only used three. Mooney looked to both high-end and low-end homes. Flowers only looked to low-end ones. Mooney evaluated the comps in a detailed fashion, setting forth their similarities and differences in his report. Mooney also made adjustments to the values of the comps for these similarities and differences. Flowers presented a very brief, abridged report of the comps, in which he did not highlight any major differences or similarities between the Wileys' property and the comps he used in his appraisal. Flowers also failed to make any adjustments to the value of the comps to reflect any differences that may have existed between it and the property at issue in this case. Mooney used comps that were located on approximately the same amount of land as

the Wileys' trailer. Flowers looked to comps that were on single lots with much fewer square feet. Mooney threw out both low and high value comps. Flowers used only low value comps, while excluding all high value ones.

The Court finds that the Bank's appraisal is simply a more thorough, complete analysis of the debtors' property. It is more well-rounded and better researched. For these reasons, the Court accepts the appraisal conducted by Mooney and sets the value of the Wileys' mobile home and the two lots upon which it is located at \$22,500.00. As a result, the Bank's objection to confirmation will be sustained. An order will be entered in accordance herewith.

ORDER

It is therefore **ORDERED** that the Objection to Confirmation of the Bank of Sharon is **SUSTAINED**. It is further **ORDERED** that the value of the mobile home and lots located at 515 Beach Road is \$22,500.00. Debtors will be given fifteen (15) days from the entry of this Order to propose a new Chapter 13 plan.

IT IS SO ORDERED.

BY THE COURT,

G. HARVEY BOSWELL
United States Bankruptcy Judge

Date: May 18, 1998