

**In re: Kenneth David Kossow**

**Case No.: 03-27115-BKC-PGH**

The debtor claimed certain household furnishings acquired before and after his marriage and a joint tax refund exempt as tenancy by the entireties property. The trustee and a creditor objected to the claim of exemptions, and the debtor moved for summary judgment on the objections to his claim of exemptions. Relying upon the Florida Supreme Court's decision in *Beal Bank, SSB v. Almand and Assocs.*, 780 So.2d 45 (Fla. 2001), the Court held that a rebuttable presumption arises that personal property, including a joint tax refund, is held as tenancy by the entireties as long as the personalty was acquired by husband and wife in accordance with the unities of possession, interest, title, and time with right of survivorship. The Court concluded that the personal property obtained after the marriage, excluding a 2003 joint tax refund, was exempt as tenancy by the entireties property. As to the 2003 tax refund, the Court determined that there were genuine issues of material fact as to whether the 2003 tax refund was intended to be held as tenancy by the entireties property based upon the debtor's prenuptial agreement. As to the personalty acquired prior to the marriage, the Court found that all the entities of an entireties estate were present at the time the debtor assigned his individual interest in the personal property acquired prior to the marriage to himself and his wife after the marriage. Accordingly, the Court granted in part and denied in part the debtor's summary judgment motion.