

**Menotte v. Champalanne (In re Champalanne)**

Case No: 08-25855

Adv No: 09-01983

Debtor purchased real property in California (the “California Property”). A loan on which Debtor was guarantor then went into default. Subsequently, Debtor and his Wife (collectively, the “Defendants”) created a Family Trust. Debtor transferred the California Property to the Family Trust for no consideration. After that transfer, the holder of the note (“Holder”) filed a collection action against Debtor. The Family Trust then sold the California Property. With funds traceable to the California Property, the Family Trust purchased real property in Florida (the “Florida Property”). The Family Trust then transferred the Florida Property to the Defendants for no consideration. Several years later, Holder received a final judgment on collection action against Debtor. Debtor then filed for Chapter 7 bankruptcy, listing the Florida Property as exempt homestead property. Trustee then filed a Complaint against the Defendants to avoid and recover fraudulent transfers pursuant to 11 U.S.C. §§ 548 and 544 and applicable Florida law.

The Court held that the Florida homestead exemption barred Trustee from avoiding the allegedly fraudulent transfers or from imposing a lien or equitable trust against the Florida Property. The Court noted that Trustee did not allege that any of the three exceptions to the homestead exemption provided by the Florida Constitution applied or that the Debtor used fraudulently obtained funds to purchase either of the properties. Furthermore, the Court rejected Trustee’s contention that § 522(o) and (p) may be used to set aside portions of a homestead under certain circumstances and refrained from addressing the proposition that § 522(o) and (p) may be used to limit the homestead exemption of a non-debtor spouse. Instead, the Court noted that § 522(o) and (p) would merely provide Trustee with grounds to object to Debtor’s homestead exemption and if successful, to limit the amount Debtor may claim as exempt.

However, the Court found that although Trustee could not impose an equitable lien or trust against the Florida Property, pursuant to Fla. Stat. § 726.109(2), Trustee may recover from the Defendants a money judgment based on fraudulent conveyance law.