CONSUMER BANKRUPTCY

Expanding the Wedding Ring Exemption

By Craig D. Robins

When many of us more seasoned bankruptcy attorneys started practicing several decades ago, there seemed to be an unspoken understanding in our district that trustees would not go after wedding and engagement rings due to their intrinsic and sentimental value. Perhaps "don't ask, don't tell" was as good at that time as any exemption statute when it came to wedding rings.

However, the same cannot be said for today. Between a great increase in the number of filings over the past several decades, the introduction of the BAPCPA amendments to the Bankruptcy Code, and fewer asset cases for trustees to pursue, debtors are now expected to disclose their wedding and engagement rings, and they are fair game for trustees.

New York's exemption statutes include CPLR § 5205 which permits a debtor to exempt a "wedding ring." That statute also protects jewelry worth up to $1,100. There's also a wildcard for personal property or cash if the homestead exemption is not used. The statute does not distinguish between wedding bands and engagement rings.

The federal exemptions permit a debtor to exempt up to $1,600 of jewelry, and up to $1,250 of any personal property, not including the wildcard, which can add as much as $12,625.

Most wedding rings are simple bands of gold. Engagement rings, however, typically contain diamonds or precious stones, and are worth considerably more. Can a debtor in New York exempt an engagement ring as a "wedding ring" as indicated in the statute?

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As a result of the relatively new availability of the federal wildcard exemption that enables a debtor to protect a significant amount of assets that are otherwise not protected, there are few instances in which trustees actively pursue engagement rings.

A bankruptcy judge in Illinois, though, recently issued an amusing decision that essentially expanded the exemption for wedding rings after the Chapter 7 trustee tried to pursue one. *In re Medina* (N.D. Illinois, Case No. 17-b-18090, Judge Jack B. Schmetterer, November 20, 2017).

In that case, the debtor-wife owned an engagement ring that was worth in excess of $1,500, but the debtor did not originally exempt it. After the trustee demanded that she turn it over, the debtor amended her exemptions by designating the ring as "necessary wearing apparel," as Illinois has an unlimited exemption for personal property in that category.

Never mind that in our jurisdiction, most trustees would not even blink at a piece of potentially non-exempt jewelry worth that much. However, the trustee filed an objection to the exemption in which he argued that the ring did not constitute "necessary wearing apparel." The trustee's entire argument was that since the debtor did not wear the ring to the meeting of creditors, the debtor did not maintain the ring in "constant usage."

In response, the debtor-wife filed a declaration stating that her ring is worn on social occasions; i.e., family gatherings, meetings at school, vacation, funerals, weddings and birthday celebrations, but that she does not wear it while caring for her children because it has caused minor abrasions.

After an exhaustive discussion of the history of wedding rings spanning several centuries, which spanned several pages, including all manner of trivia (did you know that the first documented diamond engagement ring was given by the Emperor Maximilian to Mary of Burgundy in 1377?), Judge Schmetterer opined about the cultural adaptation of the engagement ring and a cultural shift of what now is almost considered a norm for wearing both a wedding band and an engagement ring together. In short, he ruled that the wedding band/engagement ring combo is "necessary wearing apparel."

The judge could not help mentioning that during the 2016 presidential debate, much comment resulted after it was observed that candidate Trump was not wearing a wedding band. The judge further noted that the wedding band has become so commonplace that prior to Prince William and Kate Middleton's 2011 marriage, the Palace issued a proclamation, warning the public that the prince would be opting not to wear a ring out of personal preference.

Returning to the legal issues, the judge stated that he found the debtor's statements persuasive. Although the wearing of a wedding ring has become common custom, even a necessary sign of being married, this custom is intended as an outward display to the world that the wearer has entered into the tradition of marriage or religious sacrament when viewed as such.

He further stated that when evaluating an exemption statute which might be interpreted either favorably or unfavorably for a debtor, authority instructs in favor of statutory interpretation supporting the exemption. The ring is exempt as long as the wearer is still married to the person who gave it. The exemption appears to be unlimited.

Keep in mind that this is an Illinois case and the decision has little weight in New York. However, if you find yourself battling it out with the trustee over an engagement ring, consider citing this case.

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