

Bond Case Briefs

Municipal Finance Law Since 1971

IDBs - KENTUCKY

Delphi Automotive Systems, LLC v. Capital Community Economic/Indus. Development Corp., Inc.

Supreme Court of Kentucky - June 19, 2014 - S.W.3d - 2014 WL 2893398

Following default on a promissory note and security agreement, Delphi Automotive Systems filed a declaratory judgment action in which it asserted that its perfected security interest in Certified Tool's equipment, including specifically a Komatsu press, which was superior to the unperfected security interest claimed by Capital Community Economic/Industrial Development Corporation, Inc., an industrial development entity established pursuant to Kentucky Revised Statutes 154.50-301-.50-346.

Capital Development countered that its interest in the Komatsu press was not a security interest but rather an ownership interest, with the press being simply leased to Certified Tool. Alternatively, Capital Development maintained that even if its interest in the Komatsu press was a security interest, Article 9 of the Uniform Commercial Code is not applicable due to one or more of the following: (1) limitations on the scope of Article 9 set forth in KRS 355.9-109(4)(q) regarding governmental units; (2) the KRS 355.9-109(3) exemption of transactions controlled by other statutes; and (3) public policy in Kentucky relevant to economic development.

On appeal, the Court of Appeals concluded that the agreement was a security interest rather than a lease, but did not reach the public policy point relied upon by the trial court, finding instead that KRS 355.9-109(4)(q) applied to exempt the transaction from the filing requirements of Article 9. The Court of Appeals concluded that the exemption in KRS 355.9-109(4)(q) applies to a transaction involving assets where the government or a governmental unit was either the borrower or the creditor. With that construction of the statute, the appellate panel held that Capital Community was not required to perfect its security interest by filing a financing statement and its 2001 security interest was superior to Delphi's subsequent, perfected 2008 security interest.

The Supreme Court of Kentucky reversed, holding that Capital Development's security interest press was subject to the provisions of Article 9. Delphi's perfected security interest was thus superior to that of Capital Development.