
TAX INCREMENT FINANCING - ILLINOIS

Bank of Commerce v. Hoffman

United States Court of Appeals, Seventh Circuit - July 15, 2016 - F.3d - 2016 WL 3854164

Federal Deposit Insurance Corporation (FDIC), in its capacity as receiver for failed bank, sued mortgagor for breach of $9 million note (including a $1.5 million TIF note) on which mortgagor defaulted, for foreclosure on property mortgaged as security for note, and for judgment against guarantors on note.

Following entry of summary judgment against mortgagor FDIC and guarantor who had guaranteed up to $900,000 of the $9 million loan filed cross-motions for summary judgment. The United States District Court for the Central District of Illinois granted summary judgment to FDIC and to bank, as successor in interest to FDIC. Guarantor appealed.

The Court of Appeals held that:

- Addressing a matter of first impression for the court, federal jurisdiction is not lost when another party is substituted for the FDIC in FDIC litigation, and
- Under Illinois law, the settlement agreement and release signed by guarantor released him from his obligation on a $157,300 loan obtained by guarantor and his wife, but not from the guarantee at issue here.

In Federal Deposit Insurance Corporation (FDIC) litigation, even though the FDIC assigned its interest to another party which was then substituted for the FDIC in the litigation, the case remains "deemed to arise under the laws of the United States," and federal jurisdiction is not lost.

Under Illinois law, settlement agreement and release signed by guarantor released him from his obligation on $157,300 loan obtained by guarantor and his wife, but not from his separate guarantee of up to $900,000 of $9 million loan obtained by mortgagor. Contract was ambiguous, as it contained conflicting language, on the one hand absolving guarantor and wife from liability arising from "the Loan Documents or the Properties" defined as three parcels securing $157,300 loan and nowhere naming mortgagor, while on the other hand generally releasing guarantor and his wife from all liabilities to the Federal Deposit Insurance Corporation (FDIC), as receiver for failed bank that made loan to mortgagor, and its successors, but both guarantor's own testimony and Illinois rules of construction supported interpretation urged by bank, as successor in interest to FDIC, namely, that the more specific provision controlled and guarantor was only released from obligation on $157,300 loan.

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