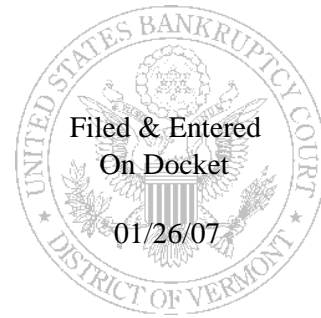


UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT



In re:

CHERYL ANN AHOKAS,
Debtor.

Chapter 13 Case
06-10232

Appearances: *Paul R. Morwood, Esq.*
 South Burlington, Vt.
 For the Debtor

Grant C. Rees, Esq.
Milton, Vt.
For Open Arms Construction, Inc.

ORDER

GRANTING IN PART AND DENYING IN PART CROSS-MOTIONS FOR SUMMARY JUDGMENT

For the reasons set forth in the memorandum of decision of even date, THE COURT FINDS that:


- A. the subject state court amended judgment contains two distinct lien components, one that arises under the Contractor's Lien Law and one that arises under the Prompt Payment Act;
- B. a lien arising under the Contractor's Lien Law is a statutory lien;
- C. a lien arising under the Prompt Payment Act is a judicial lien;
- D. only judicial liens may be avoided under 11 U.S.C. § 522(f);
- E. it is proper to bifurcate the state court amended judgment into its statutory and judicial lien components;
- F. the portion of the state court amended judgment that arises under the Contractor's Lien Law consists of the jury award plus interest, and totals \$13,304.85, as of the date of entry of the amended judgment;
- G. the portion of the state court amended judgment that arises under the Prompt Payment Act consists of costs, penalties, and reasonable attorney's fees, and totals \$41,569.96, as of the date of entry of the amended judgment;
- H. the Creditor's claim against the Debtor is secured by the state court amended judgment, to the extent not avoided herein;
- I. the judicial lien impairs the Debtor's exemption in her Westford, Vermont residential real property; and
- J. any arguments based upon principles of fraudulent transfer law are not properly before the Court at this time.

THEREFORE, IT IS HEREBY ORDERED that

1. the Debtor's motion for summary judgment is GRANTED in part and DENIED in part;
2. the Creditor's motion for summary judgment is GRANTED in part and DENIED in part;
3. the portion of the state court amended judgment that arises under the Prompt Payment Act is a judicial lien and is avoided, pursuant to 11 U.S.C. § 522(f), in the amount of \$41,569.96;
4. the portion of the state court amended judgment that arises under the Contractor's Lien Law is a statutory lien and is not avoided, and hence \$13,304.85 of the state court amended judgment, plus interest from the date of judgment on that amount, remains in full force and effect;
5. the Creditor's objection to the Debtor's chapter 13 plan is SUSTAINED in part and OVERRULED in part, consistent with the findings of fact and conclusions of law set forth in the memorandum of decision of even date;
6. the Debtor shall file and serve an amended plan, consistent with the findings of fact and conclusions of law set forth in the memorandum of decision of even date, **by 5:00 P.M. on February 6, 2007;**
7. the hearing currently scheduled on the confirmation of the plan shall proceed, as scheduled, on **February 8, 2007 at 1:30 P.M., in Burlington , Vt,** but shall be conducted as a status conference.

SO ORDERED.

January 25, 2007
Rutland, Vermont



Colleen A. Brown
United States Bankruptcy Judge