

In re D. F. & C. P. Long

United States District Court, S.D. Florida

January 7, 1918

282 F. 383

***384** C. M. Cooper and C. P. & J. J. G. Cooper, all of Jacksonville, Fla., for bankrupt.

Marks, Marks & Holt, of Jacksonville, Fla., for creditors.

CALL, District Judge.

On September 19, 1917, the referee made an order disapproving the action of the trustee in setting apart to the bankrupt D. F. Long life insurance policy No. 310895, in the Penn Mutual Life Insurance Company, as exempt; said order requiring the bankrupt to pay the cash surrender value of \$400. In the same order the referee confirmed the action of the trustee in setting apart to said bankrupt as a homestead 50 acres of land near Mandarin.

The bankrupt filed his petition to review that portion of the referee's order denying his right to exempt the life insurance policy, and certain creditors filed petitions to review that portion of the order setting apart to the bankrupt the homestead near Mandarin, Fla. Both questions were argued and submitted at once.

The bankrupt claims the insurance policy as exempt under section 3154 of the General Statutes of Florida. This section is compiled as chapter 2 of the General Statutes, and is headed 'Life Insurance Policies.' Section 3154, 'Disposition of Proceeds,' reads in part as follows:

'Whenever any person shall die in this state leaving insurance on his life, the said insurance shall inure exclusively to the benefit,' etc.

The referee reached the conclusion that this section controlled the disposition of the proceeds of life insurance after the death of the insured, and I think that conclusion correct. It is not, it seems to me, an exemption recognized by the Bankruptcy Act (Comp. St. Secs. 9585-9656), and to be enforced by the bankruptcy court. The petition to review that portion of the referee's order will therefore be denied.

The creditors challenge that portion of the referee's order confirming the action of the trustee as to the Mandarin homestead. The referee filed his opinion setting forth the facts as to the homestead as they appear from the testimony, and after considering the testimony I think it is a fair statement of the conclusions to be deduced from the record. Under the facts as found by the referee, I am of opinion that the bankrupt Long is entitled to the homestead set apart to him near Mandarin.

The petition to review this portion of the referee's order will therefore be denied. It will be so ordered.