

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Patricia A. Parker,) AWG Docket No. 10-0393
)
Petitioner)

Decision and Order

This matter is before me upon the request of the Petitioner, Patricia A. Parker,¹ for a hearing in response to efforts of Respondent, USDA’s Rural Development Agency, Rural Housing Service, to institute a federal administrative wage garnishment against her. On August 26, 2010, I issued a Pre-hearing Order setting the date for the hearing and requiring the parties to exchange information concerning the amount of the debt. On November 15, 2010, I issued a Rescheduling Order setting a new date for the hearing.

Rural Development filed a copy of its Narrative along with exhibits RX-1 through RX-6 on September 3, 2010. On December 3, 2010, Ms. Parker filed her Consumer Debtor Financial Statement.

I conducted a telephone hearing on December 6, 2010. Rural Development was represented by Mary Kimball who testified on behalf of the agency. Ms. Parker represented herself. The witnesses were sworn.

¹Patricia A. Parker divorced Troy Parker and is currently known as Patricia A. Merchant. For the purposes of this decision, I will refer to her as Patricia A. Parker.

Ms. Parker acknowledged that she received a copy of Rural Development's Narrative and Exhibits. Ms. Kimball acknowledged receipt of Ms. Parker's Consumer Debtor Financial Statement.

On September 8, 1994, Ms. Parker and her then husband, Troy Parker, borrowed \$52,280.00 from USDA Farmers Home Administration to purchase their residence in French Lick, IN. (RX-1, RX-2).

The Parkers defaulted on the loan and Rural Development filed an action against the Parkers in the United States District Court, Southern District of Indiana. On April 7, 2000, the District Court issued a Decree of Foreclosure. On July 18, 2000, the house was sold at a foreclosure sale. USDA received \$32,278.55 from the foreclosure sale and applied that to the outstanding balance. At the time of the sale, the amount owed on the loan was \$64,950.51 – \$51,225.00 in principal, \$10,144.07 in interest and \$3,581.44 in fees. Applying the proceeds from the foreclosure sale leaves a balance of \$32,671.96. Since the sale, Rural Development received \$8,683.21 subsequently collected by Treasury leaving a balance of \$23,988.75. In addition, there are potential fees of \$6,716.85 due the US Treasury for the cost of collection, giving a total amount claimed by Rural Development as \$30,705.60.

On August 9, 2000, the District Court issued its Order Confirming Sale and Deficiency Judgment. In that order, the Court found that a deficiency exists and issued "a personal money judgment against the Defendant, Troy L. Parker, for said deficiency in the sum of \$30,315.62." The record does not show whether Rural Development did not

seek a deficiency against Patricia Parker or the Court found the deficiency did not apply to her.² However, the Court made no mention of a deficiency applying to Ms. Parker. Therefore, I find that any amounts due Rural Development on the loan are not the responsibility of Ms. Parker. Furthermore, because the District Court did not find that Ms. Parker had responsibility for the deficiency, Rural Development had no authority to collect funds from Ms. Parker to satisfy this deficiency.

Findings and Conclusions

1. The Secretary of Agriculture has jurisdiction over the parties, Patricia A. Parker and USDA Rural Development Agency, Rural Housing Service; and over the subject matter, which is administrative wage garnishment.

2. The United States District Court, Southern District of Indiana issued a deficiency judgment holding Troy Parker responsible for the deficiency resulting from the loan foreclosure on the house he and Patricia Parker purchased in French Lick, IN.

3. Patricia A. Parker does not owe any debt to Rural Development resulting from the loan foreclosure on the house in French Lick, IN.

4. Rural Development had no authority to collect funds from Ms. Parker to satisfy the deficiency resulting from the loan foreclosure on the house in French Lick, IN.

²At the hearing I asked Ms. Kimball to provide a memo/discussion, in writing, addressing the impact on Ms. Parker's obligation on the fact that the Court issued the deficiency judgment against Mr. Parker but not Patricia Parker. On February 3, 2011, I received from Ms. Kimball a copy of a short e-mail exchange that did not address the question or take a position regarding Ms. Parker's obligation.

5. Wage garnishment is not authorized.

Order

USDA Rural Development Agency, Rural Housing Service, and those collecting on its behalf, are not authorized to proceed with garnishment. All collection activities against Ms. Parker relating to the loan deficiency on the house in French Lick, IN shall cease. USDA Rural Development Agency, Rural Housing Service shall determine the amount of money collected from Patricia Parker to repay the debt on the house in French Lick, Indiana since August 9, 2000, the date of issuance of the Deficiency Judgment against her former husband. USDA Rural Development Agency, Rural Housing Service shall refund to Ms. Parker all such money collected from her.

Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's Office.

Done at Washington, D.C.
this 7th day of February 2011

STEPHEN M. REILLY
Hearing Official