

LIBERTY NATURAL PRODUCTS, INC.

v.

DAVID HOFFMAN et al.

Argued September 12, 2017  
Decided September 26, 2017

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Liberty Natural Products, Inc., appeals from a judgment entered by the Superior Court (Hancock County, *R. Murray, J.*) after a nonjury trial on Liberty's fraudulent transfer complaint. The complaint arose from a 2006 transfer of real property from Valerie Hoffman, Liberty's judgment debtor from a separate action, and Valerie's then husband, David Hoffman, to Peaceful Properties LLC, of which David is the sole member. *See* 14 M.R.S. § 3575 (2016). Liberty contends that the court erred in failing to decide whether a purported promissory note from the LLC was valid and enforceable to determine whether reasonably equivalent value had been exchanged when the Hoffmans transferred the property to the LLC. *See id.* § 3575(2)(H).

The court's role was to determine whether the transfer was fraudulent. *See Huber v. Williams*, 2005 ME 40, ¶ 17, 869 A.2d 737. The form of the note, although relevant, was not dispositive on this issue of value given. The court found that Valerie actually received her share of the value of the note, whether or not there was any defect in the note, and that the primary reason for the transfer to the LLC was to shield David from liability during his construction

of a house on the property. Given these findings, we cannot conclude that the court was compelled to find—by clear and convincing evidence—that any defects in the form of the note demonstrated either an actual intent to hinder, delay, or defraud creditors through the transfer of the Winter Harbor property to the LLC or that the transfer was not in exchange for reasonably equivalent value. *See* 14 M.R.S. § 3575(1)(A), (B); *Morin v. Dubois*, 1998 ME 160, ¶ 3, 713 A.2d 956.

The entry is:

Judgment affirmed.

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Glen L. Porter, Esq., Ryan P. Dumais, Esq. (orally), and Adria Y. LaRose, Esq., Eaton Peabody, Bangor, for appellant Liberty Natural Products, Inc.

Richard C. Cleary, Esq. (orally), Cleary Law Office, P.A., Ellsworth, for appellee Peaceful Properties, LLC and David Hoffman

Robert Van Horn, Esq. (orally), Van Horn Law Office, Ellsworth, for appellee Valerie Hoffman