



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**In re: TODD MICHAEL McLAUGHLAN
CV-21-0095-CQ**

PARTIES:

Debtor: : Todd Michael McLaughlan

Creditor: Pacific Western Bank (“PWB”)

FACTS:

In 2015, PWB recorded a judgment against the Debtor in Mohave County, and in 2019 the Debtor filed a Chapter 7 bankruptcy. In accordance with Arizona statutory exemptions, the Debtor scheduled a \$150,000 exemption in his Lake Havasu residence valued at \$530,000 with a \$376,677 mortgage lien. PWB filed a proof of claim asserting a claim for \$668,482.14, including a secured and unsecured component. Subsequently the bankruptcy court approved a settlement resolving the Trustee’s claim to any value in the homestead above the liens and statutory exemption, and the Debtor ultimately received a discharge on July 13, 2020.

Debtor sold the property in August 2020 and netted \$56,852.58 above his \$150,000 exemption which funds are being held pending resolution of PWB’s claim.

PWB asserts under A.R.S. § 33-1103(A)(4) that the judgment lien attached to the residence and although the debt against the Debtor has been discharged, it can collect from the property encumbered by its recorded lien.

The Bankruptcy Court certified this question to the Court:

CERTIFIED QUESTION:

Whether a recorded judgment lien attaches to homestead property where the judgment debtor has equity in excess of the amount exempt under Arizona law?

STATUTES:

A.R.S. § 33-1103:

A. The homestead provided for in § 33-1101, subsection A is exempt from process and from sale under a judgment or lien, except:

1. A consensual lien
2. A lien for labor or materials
3. A lien for child support arrearages or spousal maintenance arrearages....

4. To the extent that a judgment or other lien may be satisfied from the equity of the debtor exceeding the homestead exemption under § 33-1101.

A.R.S. § 33-964:

A. Except as provided in §§ 33-729 and 33-730, from and after the time of recording as provided in § 33-961, a judgment shall become a lien for a period of ten years from the date it is given, on all real property of the judgment debtor except real property exempt from execution, including homestead property, in the county in which the judgment is recorded, whether the property is then owned by the judgment debtor or is later acquired. A civil judgment lien obtained by this state and a judgment lien for support, as defined in § 25-500, remain in effect until satisfied or lifted.

B. Except as provided in § 33-1103, a recorded judgment shall not become a lien on any homestead property. Any person entitled to a homestead on real property as provided by law holds the homestead property free and clear of the judgment lien.

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