

(5)(1) Only the purchase money lien from the deed of trust and the lien for property taxes on Julie and John's homestead are valid; the credit card company's abstract of judgment and the lien claim for an unpaid feed store invoice are not. At issue is which types of liens on exempt homestead property are valid under the Texas Property Code (Code). The general rule is that no liens on exempt homestead property are valid, unless they are within a specific statutory exception. These exceptions include: (i) purchase money interests on the real property, including mortgages and deeds of trust, (ii) property tax liens, (iii) owelty claims, (iv) home equity loans up to 80% of the equity in the home, (v) materialmen's and mechanic's liens, and a few other items. Judgments arising from personal credit card debt or unpaid invoices from retailers are not included among the exceptions.

Here, the homestead Property owned by Julie and John is encumbered by four liens, two of which are valid under the Texas Property Code, and two that are not.

- First, the purchase money lien arising from a deed of trust is valid. Purchase money liens arise when the money used to purchase the property is acquired by a loan secured by the property itself. Here, John and Julie took out a deed of trust to finance the purchase of the Property and that money was secured by the Property itself. Purchase money interests are first in line in priority on homestead property.
- Second, the abstract of judgment filed by CreditCo in connection with Julie's personal credit card debt is not valid because judgment abstracts from personal credit card debt are not an exception to the general rule. In fact, the homestead exemption is designed to protect an individual's homestead from precisely these kinds of consumer debts in order to protect that individual's ability to maintain a home in Texas.
- Third, the lien for property taxes is valid because it fits within a Code exception. Again, this makes sense because the obligation arises from ownership of the property itself (much like purchase money interests).
- Fourth, the claim for an unpaid feed store invoice also is invalid for reasons similar to the personal credit card debt judgment. Texas will protect homesteaders from - generally - debts not arising or related to the property itself (this seems to generally be the theme of the Code's exceptions to the general rule).

(2) The Property is a rural marital homestead. In Texas, a homestead property depends on a three principal factors: (i) whether the homesteader has an intent to make the property his or her homestead and has made acts of preparation to do so or is occupying the property as a residence, (ii) whether the homesteader is single or married, and (iii) whether the property is considered to be urban or rural for homestead property. Single and married homesteaders in urban homesteads can claim 10 contiguous acres as homestead. Single owners of rural homesteads can claim 100 non-contiguous acres, so long as the residence is on one portion and the remainder is used to support the homesteader. Married owners of rural homesteads can claim 200 non-contiguous acres, with the same support rules as single rural homesteads.

- Here, Julie and John reside in a home on the Property, which is sufficient to show their intent to make the Property their residence.
- Second, Julie and John are married - which affects the analysis of the third prong.
- Third, the Property is located outside of the nearest municipality and outside of the bounds of that municipality's extra-territorial jurisdiction. It is unclear whether the Property receives any municipal services (e.g., police, fire, water, utility), but the location outside of the physical and extra-territorial jurisdiction boundaries is sufficient to show that the Property is rural for homestead designation purposes. As John and Julie are married, they can claim homestead status on up to 200 acres of non-contiguous property; John and Julie have 150 acres on three adjacent (i.e., contiguous) parcels. The facts do not indicate how the parcels are used, but because they are contiguous, an analysis of whether each tract "supports" the homestead is not needed.

As such, John and Julie have a 150-acre, rural marital homestead.

(1) The issue is which of the liens on the property is valid under the Texas Property Code and which are not:

Under Texas law, a homestead property is protected from certain debts that may be levied against it. In order to get this protection, a homestead must be recognized as a valid homestead by Texas laws. Once it is valid, a homestead will protect the homestead from being taken away from them except for under specific transaction. Transactions that are allowed to seek foreclosure or debt collection upon the homestead include: (1) valid purchase money security interest on the home; (2) contractors lien; (3) mortgage; (4) refinanced mortgage; (5) a tax lien for unpaid taxes to federal or state governments. Anything that does not fall into this list will not be allowed to invade the protections provided on the homestead. The party will thus have to go after other property, personal or real, that is not covered by the homestead protection.

(i) The Purchase money lien is a valid lien under the Texas property Code.

Here, the purchase money lien will be able place a lien on the homestead property of the couple because the purchase money is on the list of approved actions to invade the homestead. Further, this offers protections for the bank or party that allows the person to obtain the homestead originally. If this were not allowed the the real estate economy would crash as homeowners would almost be completely protected from any lien of judgment on the homestead.

(2) The abstract of judgment is not valid under the TPC.

Here, the abstract judgment filed by CreditCo in connection with Julie's personal credit card debt is not valid as the statute does not allow an action for personal debts to be levied against the homestead. Further, this is the separate debt of Julie, so not only does it protect the homestead but is also protects John's personal property. Further one spouse can not unilaterally burden the homestead property without the consent of the other spouse.

(3) The lien for property taxes is valid under the TPC

Here, the local taxing authority is allowed by law to attach a lien to the homestead as the right is specifically provided for in the Texas Property Code.

(4) the lien claim for unpaid invoice from livestock feed store is not valid under the Texas Property Code.

A creditor is not allowed to attach an invoice from a business sale on the homestead property unless it is for a purchase money mortgage or security. The facts do not show that this is such a purchase, therefore the law will not allow the livestock company to go after the homestead.

In conclusion, the purchase money lien and the lien for property taxes are valid, and the credit card debt and livestock invoice are not valid under the Texas Property Code.

(2) The property is a rural homestead.

Under Texas law, a homestead must either be a rural or urban homestead. An urban homestead must be located within the municipality and can't be larger than 10 contiguous acres of property and may include a business. A rural homestead for a single person can not be larger than 100 acres and for a couple can't be larger than 200 acres. The rural homestead does not have to be contiguous lots. Further the rural homestead must be outside the boundary of a municipality and must not be served by fire protection or water services from the city. A homestead property may be designated such in the county where it is located or may be homestead by default if it meets the requirements. A designation is not affected if the property later is brought into the municipality.

Here, John and Julia are allowed to have up to 200 acres (They have 150 acres) as they are a couple and their property is considered rural. The property is rural because it is outside of the boundary of the nearest municipality. The evidence does not show if it is served by fire or water protection. However, if when they filed for designation the property met the requirements then it will be allowed to maintain its designation. Therefore, the 150 acre property will be considered rural homestead.

1. Only the purchase money lien and the property tax lien are valid.

The issue presented is whether the protections against creditors that a homestead receives will invalidate any of these 4 encumbrances.

The rule in Texas is that a homestead receives protection from most creditors' liens. However, some liens may still attach to a homestead. These include: a lien for the purchase money of the homestead; property tax liens; and several other types of liens that are not raised the present facts.

Here, the property is a rural homestead (full analysis below). Therefore, the purchase money lien is valid because it is one of the liens enumerated by the Texas Property Code that may still attach to a homestead. The judgment filed by CreditCo in connection with Julie's personal credit card debt is not valid because it is not one of the liens enumerated by the Texas Property Code that may attach to a homestead. The property tax lien is valid because it is one of the liens enumerated by the Texas Property Code that may still attach to a homestead. The lien for an unpaid invoice from a livestock feed store is invalid because it is not one of the liens enumerated by the Texas Property Code that may attach to a homestead.

2. The property is a rural homestead.

The rule in Texas is that a rural homestead: must be located outside of a municipality and not be covered by a municipality's fire or police protection; must be less than 200 acres for a family; and does not have to be on one contiguous tract.

Here, the property is located outside of the nearest municipality and its extra-territorial jurisdiction. Being located outside of the municipality's extra-territorial jurisdiction means that the property is not covered by fire or police protection. Additionally, the property is 150 acres located on 3 adjacent parcels. Therefore, the property satisfies the requirements for a rural homestead.