

NEWS & DEVELOPMENTS

SCOTUS Rules in *Bank of America v. Caulkett*

In [*Bank of America v. Caulkett*](#), the Supreme Court decided by unanimous decision on June 1 that a debtor in a Chapter 7 proceeding may not avoid a junior mortgage under section 506(d) of the Bankruptcy Code even where the debt owed on the senior mortgage exceeds the value of the debtor's collateral.

Section 506(d) provides (in material part) that a lien that secures a claim that is not an allowed secured claim is void. *See* 11 U.S.C. §506(d). According to the debtors, section 506(a)(1) provides that an allowed claim only is secured to the extent of the value of the creditor's collateral, and the creditor holds an unsecured claim for any amount in excess of the value of the collateral. Accordingly, a junior mortgagee who has no recourse to collateral because the value is completely subject to the senior mortgagor's claim cannot be an "allowed secured creditor" so as to prevent the debtors from avoiding the junior mortgagor's lien under Section 506(d).

The Supreme Court agreed that the debtors' straightforward, textual approach supported their position that the junior liens could be avoided, a conclusion that had been reached by the Bankruptcy Court, the district court and the Eleventh Circuit, each of which had previously ruled in favor of the debtors. However, the Supreme Court decided that the issue had to be determined in light of the earlier decision in [*Dewsnup v. Timm*](#), 502 U.S. 410 (1992). There, the Court had defined the term "secured claim" under section 506(d) to mean a claim "supported by a security interest in property, regardless of whether the value of that property would be sufficient to cover the claim. Under this definition, [section] 506(d)'s function is reduced to 'voiding a lien whenever a claim secured by the lien itself has not been allowed.'"

The Court noted that the debtors had not asked the Court to overrule *Dewsnup* and had instead argued that *Dewsnup* did not apply, was distinguishable, or could be limited to its express facts. The Court, however, disagreed and determined that *Dewsnup* directly applied and therefore controlled the Court's ultimate determination here that the bank's claims could not be avoided under section 506(d) because those claims were both secured by a lien and allowed under section 502. Accordingly, the Court reversed the lower court's judgments and remanded for further proceedings consistent with its opinion.

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