

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 97-1601WM

In re: Mountain Oaks Enterprises, Inc.	*	
	*	
Debtor,	*	
<hr/>	*	
Mountain Oaks Enterprises, Inc.,	*	
	*	
Appellant,	*	Appeal from the United States
	*	District Court for the Western
v.	*	District of Missouri.
	*	
1994 St. Charles Associates, L.P.;	*	[UNPUBLISHED]
1994 St. Charles, Inc.; Tri-Lakes	*	
Escrow, Inc.,	*	
	*	
Appellees.	*	

Submitted: November 20, 1997
Filed: December 18, 1997

Before FAGG and HANSEN, Circuit Judges, and PIERSOL,* District Judge.

PER CURIAM.

*The Honorable Lawrence L. Piersol, United States District Judge for the District of South Dakota, sitting by designation.

We have reviewed the record and conclude that an opinion will have no precedential value. We thus affirm for the reasons stated in the district court's order without further discussion. See 8th Cir. R. 47B.

PIERSOL, District Judge, dissenting.

I respectfully dissent. On appellate review, the district court and the court of appeals are bound by the bankruptcy court's findings of fact unless they are clearly erroneous, while the bankruptcy court's legal conclusions are reviewed de novo. In re Hairopoulos, 118 F.3d 1240, 1243 (8th Cir. 1997). The district court below reversed the bankruptcy court, not because it disagreed with the bankruptcy court's application of Missouri contract law or the bankruptcy court's legal interpretation of paragraph 11 of the real estate contract at issue, but because the district court substituted its own factual findings for those made by the bankruptcy court. My review of the trial transcript and the exhibits provided on appeal convinces me that the bankruptcy court's factual findings are well-supported by the trial evidence and are not clearly erroneous, and the bankruptcy court's legal conclusions are amply grounded in the applicable law. Accordingly, I would reverse the judgment of the district court and reinstate the decision of the bankruptcy court.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.