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Determining Property Ownership in Bankruptcy

It is not uncommon for close family members to transfer ownership of assets to one another. It is also common for one family member to own assets by proxy in the name of another family member. But before you do such things, you should be aware of the sticky issue of ownership should bankruptcy take place.

Let's consider a hypothetical situation. John Doe has bad credit but his sister, Jane Doe has excellent credit standing. John desires to buy a car but because of his bad credit record, he is not able to secure financing, so he asks his sister Jane to purchase the vehicle in her name. John even pays the down payment and promises to pay the monthly installments so that Jane does not have to fork out a single dime.

All goes well for a few months until Jane runs into problems of her own. Let's say she runs into massive financial difficulties, loses her job and incurs high medical costs for a chronic and serious illness. She is no longer able to clear her debts and files for bankruptcy. Another hypothetical scenario can be Jane is an innocent spouse whose husband has absconded leaving her straddled with huge back taxes she is liable for because she and her husband are joint filers of their income taxes. The IRS might even file a levy on her properties (including the car she bought in her name). Again, the situation is critical and Jane is forced to file for bankruptcy protection.

In these hypothetical situations, the car immediately becomes part of the bankruptcy estate. This means the car might be sold to help pay off Jane's debts. She cannot transfer the ownership back to her brother because it is not allowed and the bankruptcy trustee would simply reverse the transfer if she tried to do so.

The only way for John to obtain ownership of the car is to buy it back from Jane. Even if the car is fully paid up, as long as it is still under her name, John cannot lay any claim to it. The bankruptcy trustee does not take into consideration who has been paying the monthly installments or maintaining and using the car. As far as the trustee is concerned, the car belongs to Jane because it officially says so on paper. So if this type of incident happens to you, you should be aware of the legal implications of ownership of assets.

Are you facing huge debt problems? Consider filing for bankruptcy protection to avoid losing your assets and get your creditors off your back. Call us at (813) 200 4133 for a free consultation.