

MARKS & WEINBERG, P.C.

In re J. Adrian Sons, Inc.

205 B.R. 24 (Bankr.D.N.Y. 1997)

Empire, a leasing company, moved to regain possession of meat processing equipment in the Chapter 11 Debtor's possession. The lease agreement between Empire and the Debtor contained an option to purchase upon completion of the base term of the lease. Empire never filed a UCC-1 regarding the equipment. Since at the end of the lease the Debtor could not pay the purchase price in one lump sum, Empire agreed to accept a higher purchase price to be paid over twelve months. Debtor then filed for bankruptcy. Empire claimed ownership of the equipment because the terms of the purchase option specifically contemplated that title not pass the Debtor unless and until payment was received in full. The court held that such an attempt to retain title until the completion of payments only amounted to an unperfected security interest in the goods sold.

Marks & Weinberg, PC is a law firm with significant experience in dealing with virtually every type of equipment and facility lease financing. The lawyers of the firm have participated in leasing financings for more than a billion dollars of equipment and are recognized throughout the industry. If you would like more cases or articles on leasing, or have any questions or comments about this Article or other leasing issues, please visit leaselawyer.com or contact Barry Marks at 205.251.8303 or Ken Weinberg at 205.251.8307.

