

Carpenter V. Longen 83 US 271,274, (1872) – SCOTUS sez splitting the debt from the mortgage is essentially a thought which no rational mind can conceive. They have yet to revisit the issue. Given the body of judicial decisions which followed this ruling, it seems the consensus is they are correct. Splitting the debt from the mortgage is indeed a thought no rational mind can conceive.

In re Bird, 2007 WL 2684265, at PP 2-4 (Bkrcty.D.MD,2007) (“The note and mortgage are inseparable; the former as essential, the latter as an incident. An assignment of the note carries the mortgage with it, while an assignment of the latter alone is a nullity....It is equally absurd to assume that such bifurcation was intended because such a bifurcation of the note from the deed of trust would render the debt unsecured.”);

In re Leisure Time Sports, Inc. 194 B.R. 859859,861 (9th Cir 1996) (stating that “[a] security interest cannot exist, much less be transferred, independent from the obligation which it secures” and that, “[i]f the debt is not transferred, neither is the security interest”)

In re BNT Terminals, Inc., 125 B>R> 963 (Bankr.N.D. Ill. 1990) (“An assignment of a mortgage without a transfer of the underlying note is a nullity ... It is axiomatic that any attempt to assign the mortgage without transfer of the debt will not pass the mortgagee’s interest to the assignee.”);

Yoi –Lee Realty Corp. v 177th Street Realty Associates, 208 A.D.2d 185, 626 N.Y.S.2d 61,64 (N.Y.A.D. 1 Dept,1995) (“The mortgage notes I inseparable from the mortgage, to which the note expressly refers, and from which the note incorporates provisions for default”)

In re AMSCO, Inc., 26 B.R. 358, 361 (Bkrcty.Conn., 1982) (reaffirming that : [t]he note and mortgage are inseparable”)

Barton v. Perryman, 577S.W.2d 596, 600 (Ark., 1979) (“[A] note and a mortgage are inseparable.”)

Trane Co. v. Wortham, 428 S.W.2d 417,419 (TX Civ. App, 1968) (“The note and the mortgage are inseparable ...”)

Kirby Lumber Corp v. Williams, 230 f2d 330, 333 (5th Cir. 1956) (“The rule is fully recognized in this state that a mortgage to secure a negotiable promissory note is merely an incident to the debt, and passes by assignment or transfer of the note ***The note and mortgage are inseparable...”)

Kelley v. Upshaw, 39 Cal2d 179, 192 246 P2d 23 (1952) (“In any event, Kelley’s purported assignment of the mortgage without an assignment of the debt which is secured was a legal nullity.”)

Hill v Favour 52AZ 561, 84 P.2d 575 (Ariz 1938) (“The note and the mortgage are inseparable, the former as essential, the latter as an incident”)

Denniston v C.I.R., 37 B.T.A. 834, 1938 WL 373 (B.T.A. 1938) (“All the authorities agree that the debt is the principal thing and the mortgage an accessory ... The mortgage can have no separate existence.”)

West v First Baptist Church f Taft, 123 TX 388 71 S.W.2d 1090, 1098 (TX 1934)

(“The trial court’s finding and conclusion ignore the settled principle that a mortgage securing a negotiable note is but an incident to the note and partakes of its negotiable character. ... The note and the mortgage are inseparable; the former as essential, the latter as an incident.”)

First Nat Bank v. Vagg, 65 Mont. 34,212 P.509,511 (Mont. 1922) (“A mortgage, as distinct from the debt it secures, is not a thing of value not a fit a fit subject of transfer, hence, an assignment of the mortgage alone, without the debt, is nugatory, and confers no rights whatever upon the assignee. The note and the mortgage are inseparable, the former as essential, the latter as an incident. An assignment of the note carries the mortgage with it, while the assignment of the latter alone is a nullity. The mortgage can have no separate existence.”) (citations omitted)

Southerin v Mendum, 5 NH 420 1831 WL 1104, at PP 7 (NH 1831)(“[T]he interest of the mortgagee is not in fact real estate, but a personal chattel, a mere security for the debt, a mere security for the debt, an interest in the land inseparable from the debt, an incident to the debt, which cannot be detached from its principal.”)