IN THE

Supreme Court

OF THE

Commonwealth of the Northern Mariana Islands

BANK OF HAWAII,
Plaintiff-Appellant,

v.

ANGELINA ROSE R. TAMANRANG,
Defendant-Appellee.

Supreme Court No. 2019-SCC-0018-CIV

OPINION

Cite as: 2020 MP 9

Decided May 8, 2020

CHIEF JUSTICE ALEXANDRO C. CASTRO
ASSOCIATE JUSTICE JOHN A. MANGLOÑA
ASSOCIATE JUSTICE PERRY B. INOS

Superior Court Civil Action No. 19-0024
Associate Judge Wesley M. Bogdan, Presiding

CASTRO, C.J.:

¶ 1 Plaintiff-Appellant Bank of Hawaii ("Bank") appeals the trial court's judgment and order denying prejudgment interest on a defaulted loan. For the following reasons, we VACATE the order and the judgment in part and REMAND for further proceedings consistent with this opinion.

I. FACTS AND PROCEDURAL HISTORY

¶ 2 In 2012, Angelina Rose R. Tamanrang ("Tamanrang") signed a promissory note ("Note") in favor of the Bank. The interest rate on the Note was 11% per annum. The Note also provided for interest after default: "Upon maturity, whether scheduled or accelerated by Lender [i.e., the Bank] because of any default, the total sum due under this Note will continue to accrue interest at the interest rate under this Note." App. 7. It further provided that "Lender may modify this Note without the consent of or notice to anyone other than the party with whom modification is made." *Id*. at 8.

¶ 3 Tamanrang defaulted on the Note and the Bank sued to collect. On February 7, 2019, the parties signed a Stipulation for Judgment ("Settlement Agreement"), agreeing to the court entering judgment in favor of the Bank for a total of $4,868.47. This sum included $2,739.45 in principal, $1,858.40 in interest at the rate of 11% per annum from December 8, 2012 to February 7, 2019, $9.12 in late charges, and $261.50 in court costs. Additionally, the parties agreed to attorney's fees as determined by the court and "interest on the total at the rate of 9% per annum from the date hereof," i.e., February 7, 2019. *Id*. at 10.

¶ 4 Seven months later, on September 3, 2019, the court entered a Stipulated Judgment awarding the Bank $4,868.47. However, the court modified the agreement by ordering interest to accrue from September 3, 2019, the date of the court order. The Bank moved for an additional award of $171.72 in prejudgment interest accrued between February 7, 2019 and September 3, 2019 at the rate of 9% per annum.[1] The court denied the motion and the Bank appeals.

II. JURISDICTION

¶ 5 The Supreme Court has jurisdiction over final judgments and orders of the Commonwealth Superior Court. NMI CONST. art. IV, § 3.

III. STANDARD OF REVIEW

¶ 6 The sole issue on appeal is whether the court erred in modifying, on its own motion, the Settlement Agreement as to the date from which interest on the judgment would accrue. Because the Settlement Agreement provided for interest to run from the date of its signing to the entry of judgment, this is an award of prejudgment interest, which we review for an abuse of discretion. *Manglona v. Commonwealth*, 2010 MP 10 ¶ 20.

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[1] The Bank invoked Commonwealth Rule of Civil Procedure 59(e)(3) to alter or amend a judgment when "necessary to correct a clear error," as well as Rule 60(a) to correct a clerical error and Rule 60(b)(5) to provide relief from a judgment.

IV. DISCUSSION

¶ 7 The Bank argues that the stipulations in the Settlement Agreement were binding on the trial court in the same manner as stipulated facts bind the parties at trial. It cites several cases in which courts enforced stipulations of the parties, particularly *Ada v. Calvo*, 2012 MP 11, and *Commonwealth v. Bordallo*, 2 CR 473 (Dist. Ct. App. Div. 1986), urging us to follow the policy interest favoring settlement. The Bank also points out that the Note provided for interest to continue accruing after default at the rate of 11% per annum. The Settlement Agreement actually reduced the rate at which interest would accrue between February 2019 and September 2019 to 9% per annum.[2]

¶ 8 Settlement agreements are contracts and the equitable power of judicial reformation is subject to contract principles. *See Ada*, 2012 MP 11 ¶ 10. A court's primary concern when interpreting a contract is to "give effect to the intentions of the parties . . . ." *Saipan Achugao Resort Members' Ass'n v. Wan Jin Yoon*, 2011 MP 12 ¶ 15 (quoting *Commonwealth Ports Auth. v. Tinian Shipping Co.*, 2007 MP 22 ¶ 16). While courts will generally enforce contracts as written, they can reform a contract to better conform to the parties' intent. Judicially reforming a contract term is usually done at the request of a party in the event of a mutual mistake. *See* RESTATEMENT (SECOND) OF CONTRACTS § 155 (1981) ("Where a writing that evidences or embodies an agreement in whole or in part fails to express the agreement because of a mistake of both parties as to the contents or effect of the writing, the court may at the request of a party reform the writing to express the agreement . . . ."). In altering the term such that interest ran instead from the date of the order, the court exercised what amounts to the power of judicial reformation. But here, the court altered the term on its own motion and without explanation in the Stipulated Judgment.

¶ 9 The court subsequently justified its modification in its order denying the motion for additional interest. *Bank of Hawaii v. Tamanrang*, No. 19-0024 (NMI Super. Ct. Oct. 18, 2019) (Order Denying Plaintiff's Motion for $171.72 In Additional Interest at 3) ("Order"). It relied on 7 CMC § 4101 ("Section 4101"), the Commonwealth's post-judgment interest statute. This rationale does not withstand scrutiny. This statute states that "[e]very judgment for the payment of money shall bear interest at the rate of nine percent a year from the date it is entered." 7 CMC § 4101. Although the statute does not govern prejudgment interest, it can be used as a placeholder provision for an interest rate when not otherwise stipulated by contract or authorized by statute. *See Isla Dev. Prop., Inc., v. Jang*, 2017 MP 13 ¶¶ 14–16. The court interpreted Section 4101 as precluding any award of interest from a date other than the date of judgment. Order at 4. It then proceeded to acknowledge that the additional interest would in fact be prejudgment interest, but claimed that, to be awarded, the Bank would have had to compute the $171.72 in the original Settlement Agreement. But at the time the Bank signed the Settlement Agreement, it could not possibly have

[2] Tamanrang does not dispute these arguments as she did not file a response brief or appear at oral argument.

foreseen that seven months would elapse before the court would enter the Stipulated Judgment. The Bank cannot foresee with certainty the amount of interest that will accrue between the date of settlement and the date of judgment. It is for this reason the Settlement Agreement provided for interest to accrue from the date it was signed.

¶ 10 The court stated that prejudgment interest should be unavailable on the ground that it purportedly was not contemplated in the original Note. It cited our decision in *Isla Development Property, Inc. v. Jang*. Order at 3. *Isla* states: "A contract may provide for prejudgment interest, or a court may award prejudgment interest 'as a damage award . . . even when interest is not stipulated for by contract or authorized by statute.'" 2017 MP 13 ¶ 14 (quoting *Manglona v. Baza*, 2012 MP 4 ¶ 23). The court additionally cited the Fair Debt Collection Practices Act, codified at 15 U.S.C. § 1692f(1), which prohibits "[t]he collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law." Both these rationales miss that the original Note did authorize prejudgment interest. The Note stated that *in the event of default*, "the total sum due under this Note will continue to accrue interest at the interest rate under this Note," that is, the parties agreed that interest would continue to run at 11%. App. 7.

¶ 11 A statutory placeholder was not required to calculate prejudgment interest because this was provided for by contract. We discussed the calculation of prejudgment interest rates in *Manglona*, 2010 MP 10 ¶¶ 20–31, and considered its application in the context of interest on a promissory note in *Isla*, 2017 MP 13 ¶¶ 13–16. Since "[t]here is no statutory prejudgment rate in the Commonwealth," *Manglona*, 2010 MP 10 ¶ 20, courts have discretion in awarding prejudgment interest but the award "must be grounded in considerations of fairness and focused on making the wronged party whole." *Isla*, 2017 MP 13 ¶ 15. In *Isla*, we vacated the award of prejudgment interest because the promissory note failed to provide for it. Here, by contrast, the Note specified an interest rate, 11% per annum, and the parties reduced that rate to 9% *for the period between the signing of the Settlement Agreement and the entry of judgment*. This was not unfair or inequitable. To the contrary, it softened the originally contemplated interest rate in order to resolve the dispute.

¶ 12 We are persuaded by the Bank's argument that the court should have served the policy interest favoring settlement and the enforcement of contracts. Appellate courts disfavor the overturning of a stipulated settlement by a trial court. For example, in *Gappert v. Borner*, the parties in a probate matter signed a settlement agreement and the trial court entered an order enforcing it. 51 N.W.2d 866 (N.D. 1952). The court then on its own motion vacated the order and entered a different disposition inconsistent with the settlement agreement. The North Dakota Supreme Court reversed, holding that the agreement was binding on the court. *Id*. at 869. In *Commonwealth v. Bordallo*, the Appellate Division of the United States District Court for the Northern Mariana Islands

specifically addressed enforcement of stipulations: "[a] court will enforce the clear terms of a stipulation unless it has not been entered into voluntarily, its terms violate public policy, or other extenuating circumstances exist." 2 CR 473, 476–77 (citing *Sellersville Sav. and Loan Ass'n v. Kelly*, 29 B.R. 1016, 1018 (E.D. Penn. 1983)). None of these circumstances are present here, so the stipulation should have been enforced.

¶ 13 Indeed, there are contexts in which the court altogether lacks the power to modify settlement agreements. We held in *Ada v. Calvo* that the court lacked the equitable power to modify a stipulated marital property settlement agreement in the absence of "(1) fraud; (2) a contractual provision allowing modification; (3) overreaching; or (4) a scrivener's error." 2012 MP 11 ¶ 20 (citations omitted). There, the party moved for modification post-judgment, but the court had already issued an order and found that the statute governing divorce orders did not confer the power to modify the order. Here, by contrast, the parties submitted a stipulation for approval, and the court on *its own motion* modified the stipulation in its judgment. This sua sponte modification was unjustified. There was no evidence that the terms of the Settlement Agreement did not reflect the parties' intent in settlement negotiations. *See GET, LLC v. City of Blackwell*, 407 Fed. App'x 307, 318–20 (10th Cir. 2011) (finding no error by trial court in sua sponte modifying a settlement agreement that departed from the parties' intent in negotiations). Whether or not the court would, in principle, have the equitable power to modify a stipulation in the instant case, there was no reason to do so. There was no fraud, overreaching, or clerical error.

¶ 14 Grounds such as mistake that would justify judicial reformation of a contract to conform to the parties' true intent are absent here. In the absence of fraud, overreach, or other reason for modification, the court should enforce the stipulation. We find that the court abused its discretion in modifying the settlement to impose a prejudgment interest term different than that agreed upon by the parties. *See Manglona*, 2010 MP 10 ¶¶ 20–21 (trial court's imposition of a prejudgment interest rate "without reference to any applicable law or factual analysis" was an abuse of discretion).

V. CONCLUSION

¶ 15 For the foregoing reasons, we VACATE the Order and the Stipulated Judgment in part and REMAND to the trial court for further proceedings consistent with this opinion.

SO ORDERED this 8th day of May, 2020.

/s/
ALEXANDRO C. CASTRO
Chief Justice

/s/
JOHN A. MANGLOÑA
Associate Justice

/s/
PERRY B. INOS
Associate Justice

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