STATE OF MICHIGAN

COURT OF APPEALS

MOUNADIL BAHOURA and SANDRA BAHOURA,

Plaintiffs-Counter-Defendants-Appellants,

v

MARY ANN BARR, WALLY BAHOURA, JAYNE BAHOURA, THE ELECTRIC BEACH TANNING & NAILS, INC, and THE TAN FACTORY, LLC,

Defendant-Appellees,

and

THE TAN FACTORY, LLC,

Counter-Plaintiff-Appellee.

UNPUBLISHED
April 29, 2004

No. 244728
Oakland Circuit Court
LC No. 00-025993-CZ

Before: Zahra, P.J., and Saad and Schuette, JJ.

PER CURIAM.

Plaintiffs Mounadil and Sandra Bahoura and defendants Wally and Jayne Bahoura[1] each owned an equal, five-hundred-share interest in defendant The Electric Beach Tan & Nails, Inc. ("Electric Beach"), a Michigan corporation. Jayne Bahoura's mother, Mary Ann Barr, is a member in The Tan Factory, LLC ("Tan Factory"), a Michigan limited liability company, along with Wally and Jayne Bahoura. On January 28, 2000, plaintiffs executed a promissory note in return for a $70,000 loan from The Tan Factory. The note called for plaintiffs to repay Tan Factory $118,000, $70,000 principal plus $48,000 interest; plaintiffs were to pay $2,000 per month for two years, then pay the remaining balance in February, 2002. Plaintiffs each pledged

[1] Mounadil and Wally Bahoura are brothers, and Sandra Bahoura and Jayne Bahoura, respectively, are their wives.

their five hundred shares of Electric Beach as security for the loan. Plaintiffs made a total of $12,000 in payments for the first six months, and then stopped making payments. When defendants moved to enforce their rights pursuant to the note and security agreement, plaintiffs filed the instant action, and alleged several counts. In their complaint, plaintiffs sought recision of the note and security agreement because plaintiffs said they were false and contained a usurious interest rate. Plaintiffs also alleged that defendants were wrongfully excluding them from running Electric Beach and sought the dissolution of Electric Beach, the removal of Wally and Jayne Bahoura as directors, appointment of a receiver, and damages for assault and battery.

By agreement of the parties, the trial court entered an order in which it dismissed the case without prejudice and submitted the case for binding arbitration. The arbitrator issued an opinion and award in which he held that the note was valid, but the interest rate it specified was usurious, and that defendants could not collect interest on it. The arbitrator further held that plaintiffs were in default of the note, and, as such, had forfeited the shares of stock they had pledged, that the note was satisfied, and that defendants were required to repay $8,000 to plaintiffs. Plaintiffs unsuccessfully moved for an order vacating or modifying the arbitration award, and the trial court entered an order in which it reinstated the case and confirmed the award of the arbitrator. Plaintiffs now appeal, and we affirm.

Our review of binding arbitration awards "is strictly limited by statute and court rule." *Krist v Krist*, 246 Mich App 59; 631 NW2d 53 (2001). A court may vacate an arbitration award only where

> (a) the award was procured by corruption, fraud, or other undue means;
>
> (b) there was evident partiality by an arbitrator, appointed as a neutral, corruption of an arbitrator, or misconduct prejudicing a party's rights;
>
> (c) the arbitrator exceeded his or her powers; or
>
> (d) the arbitrator refused to postpone the hearing on a showing of sufficient cause, refused to hear evidence material to the controversy, or otherwise conducted the hearing to prejudice substantially a party's rights. [MCR 3.602(J)(1).]

An arbitrator's factual findings are not subject to appellate review. *Krist*, *supra* at 67. We may review "only those awards that contain an error of law discernable on the face of the very award itself." *Id.*, citing *DAIIE v Gavin*, 416 Mich 407, 429; 331 NW2d 418 (1982).

Both of plaintiffs' issues on appeal challenge the arbitrator's findings of fact. Plaintiffs argue that the arbitrator's award is flawed because he made no findings of fact regarding the value of the business and made no findings of fact regarding defendants' alleged use of business funds for personal gain. However, a review of the arbitration award reveals that the arbitrator made an extensive inquiry into Electric Beach's books. Furthermore, the arbitration award did, in fact, make a finding of fact that defendants had used business funds for their own personal use. Because plaintiffs' issues on appeal challenge the sufficiency of the arbitrator's factual findings, and because "[c]laims that quarrel with a binding arbitrator's factual findings are not subject to appellate review," *Krist*, *supra* at 67, we accordingly find plaintiffs' arguments to be without merit and we hold that the trial court properly confirmed the arbitration award.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Bill Schuette