

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LACHHMAN DASS GUPTA and	§
MANJULA GUPTA,	§
	§ No. 459, 2003
Defendants Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
CITIZENS BANK, Successor to	§ in and for Kent County
MELLON BANK (DE)	§ C.A. No. 02J-05-068
NATIONAL ASSOCIATION,	§
	§
Plaintiff Below-	§
Appellee.	§

Submitted: March 11, 2004

Decided: May 4, 2004

Before **HOLLAND**, **BERGER**, and **JACOBS**, Justices.

ORDER

This fourth day of May 2004, upon consideration of the opening brief and the appellee's motion to dismiss or, in the alternative, to affirm, it appears to the Court that:

(1) The defendants-appellants, Lachhman Dass Gupta and Manjula Gupta, filed this appeal from the Superior Court's entry of judgment against them in the amount of \$98,060.02. The appellee, Citizens Bank, has filed a motion to dismiss the appeal on the ground that it is interlocutory. In the alternative, Citizens Bank has filed a motion to affirm the Superior Court's

judgment on the ground that it is manifest on the face of the appellants' opening brief that the appeal is without merit. We agree that the appeal is without merit. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that the appellants, Lachhman Dass and Manjula Gupta, are husband and wife and the principals of Gupta Associates, Inc. On February 4, 2000, the Guptas, on behalf of Gupta Associates, Inc., signed business loan documents with Citizens Bank, successor to Mellon Bank DE, N.A. The loan documents included the Guptas' personal guarantees for a line of credit in the amount of \$75,000. The loan documents also included a confession of judgment provision, which waived the Guptas' rights to notice and a hearing prior to the entry of judgment against them in the event of a default on the loan.

(3) In 2002, after Gupta Associates defaulted on the loan, the bank sought entry of judgment by confession against the Guptas, as personal guarantors of the loan.¹ The Guptas objected to the entry of judgment against them, and the Superior Court held an inquisition hearing. At the hearing, the Guptas contended that they told the bank's loan officer that they did not want to personally guarantee the business line of credit. According to the Guptas, at the loan closing on February 4, 2000, the bank's loan officer did not

¹ See Super. Ct. Civ. R. 58.1 (regarding entry of judgment by confession).

explain that the loan documents included a personal guarantee. When they realized they had signed a personal guarantee for the business loan, the Guptas contended that they sent a letter to the loan officer, dated February 7, 2000, revoking the personal guarantee. The Guptas provided a copy of the letter at the hearing. The bank denied ever receiving the revocation.

(4) At the conclusion of the hearing on September 8, 2003, the Superior Court orally pronounced judgment by confession against the Guptas. The Superior Court concluded that the evidence presented established that the Guptas had knowingly and voluntarily waived their right to notice and trial prior to the entry of judgment and that they had provided valid personal guarantees for the line of credit, which was a material term of the loan. The Superior Court accepted the Guptas' evidence of their revocation but concluded that the bank had presented sufficient evidence to establish that the revocation was never received by it and, therefore, the revocation was ineffective.² Moreover, the Superior Court noted that the Guptas had paid the loan closing fee on February 9, 2000, two days after their letter of revocation, which reflected acceptance of the written terms of the loan.

² See *Mercedes-Benz of North Am., Inc. v. Norman Gershman's Things to Wear, Inc.*, 596 A.2d 1358, 1363 (Del. 1991) (revocation of acceptance is question for fact-finder).

(5) On September 16, 2003, the Guptas filed an appeal from the Superior Court's September 8 oral ruling. The Superior Court, however, did not enter its final judgment on the docket until September 22, 2003. Citizens Bank has filed a motion to dismiss the Guptas' appeal on the ground that it was filed from an interlocutory ruling. Under the circumstances of this case, we find no basis to dismiss the appeal on jurisdictional grounds.

(6) Alternatively, Citizens Bank has moved to affirm the Superior Court's judgment on the ground that it is manifest on the face of the Guptas' opening brief that the appeal is without merit. After careful consideration of the parties' respective positions and the record below, we find it manifest that the judgment of the Superior Court should be affirmed on the basis of the Superior Court's well-reasoned decision dated September 22, 2003. The Guptas raise issues on appeal that are factual and clearly there was sufficient evidence to support the Superior Court's findings and judgment below.³

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

³ See Supr. Ct. R. 25(a)(ii).