[Cite as *Ohio Neighborhood Fin., Inc. v. Brightman*, 2010-Ohio-6093.]

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY

OHIO NEIGHBORHOOD FINANCE, INC. dba CASHLAND	:	Appellate Case No. 23656
Plaintiff-Appellant	:	Trial Court Case No. 09-CVF-2928
v.	:	
	:	(Civil Appeal from
GLENDA BRIGHTMAN	:	Dayton Municipal Court)
Defendant-Appellee	:	

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O P I N I O N

Rendered on the 10th day of December, 2010.

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Defendant-Appellee, *pro se*

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BROGAN, J.

{¶ 1} Appellant Ohio Neighborhood Finance, Inc. ("Ohio Neighborhood") appeals the decision of the Dayton Municipal Court, granting judgment against Glenda Brightman for the sum of $579.05, plus costs and attorneys' fees, plus post-judgment interest at 5% per annum. Ohio Neighborhood argues that the trial

court improperly lowered the rate of interest from 25% to 5%, because Ohio Neighborhood and Brightman agreed upon the 25% interest rate, and that amount should be enforced. Since the agreed upon interest rate in the contract was 25%, that amount should be applied to the judgment. For the following reasons, we reverse the judgment of the trial court.

I

{¶ 2} On December 22, 2008, Ohio Neighborhood made a loan to Brightman for the amount of $500.00. Aside from repaying the $500.00, Brightman agreed to a loan origination charge of $30.00, and a credit investigation fee of $10.00. After the fees and interest, Brightman was required to pay an aggregate sum of $544.05 due January 2, 2009. In the "Promise to Pay" section of the customer agreement that Brightman signed, it states in pertinent part:

{¶ 3} "You promise to pay us $500.00 (the Principal Amount on this loan) plus interest at a rate of 25% per annum on the principal outstanding for the time outstanding from the date of this Customer Agreement until paid in full."

{¶ 4} On January 2, 2009, Brightman was unable to repay the loan. After Ohio Neighborhood demanded the amount be repaid, Brightman failed to repay the amount due under the loan agreement.

{¶ 5} Ohio Neighborhood filed a complaint on May 11, 2009 in the Dayton Municipal Court, seeking judgment against Brightman for the amount of $579.05 plus the interest of 25% per annum beginning on the date of default, along with court costs and reasonable attorneys' fees as permitted by statute and contract.

Brightman failed to respond or plead to the complaint, and Ohio Neighborhood filed its motion for default judgment.

{¶ 6} On August 21, 2009, the trial court journalized the judgment entry and awarded Ohio Neighborhood $579.05, plus court costs and attorneys' fees. Instead of awarding the agreed interest rate of 25%, the trial court awarded only 5% interest per annum on the unpaid principal from the date of judgment.

II

{¶ 7} Ohio Neighborhood puts forth one assignment of error, which states as follows:

{¶ 8} "THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN REDUCING TO 5% PER ANNUM, THE INTEREST RATE ON THE DEBT IN THE DEFAULT JUDGMENT GRANTED IN FAVOR OF APPELLANT OHIO NEIGHBORHOOD FINANCE, INC."

{¶ 9} Ohio Neighborhood argues that it is permitted by statute to contract a loan with an interest rate as long as that interest rate does not exceed 25%, and since both parties agreed upon that amount of interest, the trial court may not unilaterally alter the amount of interest. We agree.

{¶ 10} R.C. 1343.03(A) states, in pertinent part:

{¶ 11} "In cases other than those provided for in sections 1343.01 and 1343.02 of the Revised Code, when money becomes due and payable upon any bond, bill, note, or other instrument of writing, upon any book account, upon any settlement between parties, upon all verbal contracts entered into, and upon all

judgments, decrees, and orders of any judicial tribunal for the payment of money arising out of tortious conduct or a contract or other transaction, the creditor is entitled to interest at the rate per annum determined pursuant to section 5703.47 of the Revised Code, unless a written contract provides a different rate of interest in relation to the money that becomes due and payable, in which case the creditor is entitled to interest at the rate provided in that contract."

{¶ 12} When construing R.C. 1343.03(A), if a written loan agreement contains an agreed upon interest rate, that interest rate should be applied to the judgment, as long as that rate is permitted by law. *American General Finance, Inc. v. Bauer* (May 4, 2001), Delaware App. No. 00CAG8023.

{¶ 13} In the present case, the agreed upon interest rate was at 25% which is permissible, and that rate should have been applied to the judgment.

{¶ 14} Ohio Neighborhood's assignment of error is sustained.

III

{¶ 15} Ohio Neighborhood's assignment of error being sustained, the judgment of the trial court is reversed and remanded for a judgment consistent with this opinion.

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DONOVAN, P.J., and FAIN, J., concur.

Copies mailed to:

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