

**IN THE COURT OF APPEALS
THIRD APPELLATE DISTRICT
ALLEN COUNTY**

**NATIONSCREDIT FINANCIAL SERVICES
CORPORATION**

CASE NO. 1-01-138

PLAINTIFF-APPELLEE

v.

HARRY WAGNER, JR., ET AL.,

OPINION

DEFENDANTS-APPELLANTS

**CHARACTER OF PROCEEDINGS: Civil Appeal from Common Pleas
Court**

JUDGMENT: Judgment Affirmed

DATE OF JUDGMENT ENTRY: February 22, 2002

ATTORNEYS:

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For Appellant**

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For Appellee**

PER CURIAM.

{¶1} Defendant-Appellants, Harry H. Wagner, et al., bring this appeal from an Allen County Common Pleas Court decision granting summary judgment in favor of Plaintiff-Appellee, Nationscredit Financial Services Corporation and other similarly situated institutions. For the reasons that follow, we affirm the decision of the trial court.

{¶2} This appeal arises from approximately sixty separate actions filed in Allen County Common Pleas Court in which Appellee and other similarly situated parties sought to foreclose upon notes and mortgages executed by Appellants. The foreclosure actions were consolidated in the trial court for briefing purposes. Plaintiffs moved for summary judgment and Appellants responded thereto. On January 3, 2001, the trial court granted summary judgment in the plaintiffs' favor. Thereafter, a decree in foreclosure was issued upon the note and mortgage held by Appellee. The instant appeal followed.

{¶3} Appellants present the following eight assignments of error for our review:

{¶4} The lower court erred in determining that there was no material issue of fact as to whether the Wagners have claims and defenses based on fraud, misrepresentation, breach of the duty of good faith and breach of contract.

{¶5} The lower court erred in determining that there was no material issue of fact with regard to Appellants' claim of negligent misrepresentation.

{¶6} The lower court erred in determining that there was no issue of fact with regard to Appellants' claim of fraud.

{¶7} The lower court erred in determining that there was no issue of fact with regard to Appellants' claim of promissory estoppel.

{¶8} The lower court erred in determining that there was no issue of fact with regard to Appellants' breach of contract claim.

{¶9} The lower court erred in determining that there was no issue of fact with regard to Appellants' claim of breach of the duty of good faith.

{¶10} The lower court erred in determining that the parole evidence rule bars Appellants' claims and defenses.

{¶11} The lower court erred in determining that there was no genuine issue of material fact as to whether Appellees are holders in due course.

{¶12} The issues, arguments, and factual context presented in the assigned errors are identical to those previously presented by Appellants and addressed by this Court in *Bankers Trust Co. ex rel Solomon Brothers Mortgage Securities VII, Inc., et al v. Harry H. Wagner & Sons, Inc., et al*,¹ wherein we held that the trial court properly determined that no genuine issue of material fact remained to be

¹ *Bankers Trust Co. ex rel Solomon Brothers Mortgage Securities VII, Inc., et al v. Harry H. Wagner & Sons, Inc., et al* (Dec. 28, 2001), Allen App. Nos. 1-01-17, 1-01-18, 1-01-19, 1-01-20, 1-01-21, 1-01-22, 1-01-23, 1-01-24, 1-01-25, 1-01-26, 1-01-28, 1-01-29, 1-01-30, 1-01-31, 1-01-32, 1-01-33, 1-01-34, 1-01-35, 1-01-36, 1-01-37, 1-01-38, 1-01-39, 1-01-40, unreported.

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litigated. Accordingly, on that authority, Appellants' assignments of error are found not well taken and must, therefore, be overruled.

{¶13} Having found no error prejudicial to the Appellant herein, in the particulars assigned and argued, the judgment of the trial court is hereby affirmed.

Judgment affirmed.

SHAW, P.J., BRYANT and WALTERS, J.J., concur.

/jlr