



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-21-00093-CV

WELLS FARGO BANK, N.A.,
Appellant

v.

Raul R. MARTINEZ, Jr.,
Appellee

From the 37th Judicial District Court, Bexar County, Texas
Trial Court No. 2019-CI-24366
Honorable Tina Torres, Judge Presiding

Opinion by: Lori I. Valenzuela, Justice
Concurring Opinion by: Rebeca C. Martinez, Chief Justice

Sitting: Rebeca C. Martinez, Chief Justice
Irene Rios, Justice
Lori I. Valenzuela, Justice

Delivered and Filed: May 18, 2022

AFFIRMED IN PART; REVERSED IN PART; REMANDED

Wells Fargo Bank, N.A. appeals the trial court's order denying its summary judgment and granting summary judgment in favor of Raul R. Martinez, Jr. We affirm the judgment of the trial court in part, reverse in part, and remand.

BACKGROUND

By a December 21, 2005 Business Lending Confirmation Letter (the "Letter"), Wells Fargo extended Martinez a \$187,500.00 line of credit. The parties' contract consists of the Letter, a

financing Disclosure,¹ and “Related Documents.” In the Letter, Martinez promised to pay “the principal amount of \$187,500.00, *or so much as may be advanced and outstanding from time to time . . .*” (emphasis added). The Letter incorporates and is accompanied by a Deed of Trust in which Martinez pledged real property as collateral to secure the line of credit.

On February 19, 2019, Wells Fargo sent Martinez a letter asserting its purported right of acceleration; stating that the “Note” had a balance of \$180,846.80; and demanding payment of the balance by March 1, 2019. On November 26, 2019, Wells Fargo filed a breach of contract suit against Martinez, alleging that Martinez failed to abide by the terms of the contract by not making payments as required under the terms of the contract and that Martinez was now in default.

Martinez subsequently filed a motion for summary judgment asserting the statute of limitations bars Wells Fargo’s claims. Wells Fargo filed a response contending its claims are not barred by limitations and moved for summary judgment on liability and damages for its breach of contract claim. The trial court granted Martinez’s motion for summary judgment and denied Wells Fargo’s motion for summary judgment. Wells Fargo appealed.

LIMITATIONS

In its first two issues, Wells Fargo contends the trial court erred in granting Martinez’s summary judgment based on his affirmative defense of limitations.

Standard of Review

Questions regarding which limitations provision applies and when a claim accrues are generally questions of law. *See Williams v. Khalaf*, 802 S.W.2d 651, 658 (Tex. 1990) (referring to question of which limitations statute applies as a question of law); *Exxon Corp. v. Emerald Oil & Gas Co., L.C.*, 348 S.W.3d 194, 202 (Tex. 2011) (“When a cause of action accrues is normally a

¹ Notably, the Disclosure is not included in the summary judgment record.

question of law.”). We review questions of law de novo. *See In re Humphreys*, 880 S.W.2d 402, 404 (Tex. 1994). Our de novo review applies regular rules of contract construction. *See Koeppe v. Koeppe*, No. 04-08-00760-CV, 2009 WL 1800611, at *2 (Tex. App.—San Antonio June 24, 2009, no pet.) (mem. op.). If a written instrument is so worded that it can be given a certain or definite legal meaning or interpretation, then it is not ambiguous, and we will construe the contract as a matter of law. *See Coker v. Coker*, 650 S.W.2d 391, 393 (Tex. 1983).

Analysis

The parties do not dispute that a four-year statute of limitations applies to Wells Fargo’s claim. However, a defendant moving for summary judgment on the affirmative defense of limitations bears the burden of conclusively establishing when the cause of action accrued. *Draughon v. Johnson*, 631 S.W.3d 81, 89 (Tex. 2021). Thus, Martinez was entitled to summary judgment only if he established there were no genuine issues of material fact and that his affirmative defense of limitations applied as a matter of law. *Id.* at 87.

Since one section of the Deed of Trust declares that the “Note” matures on December 10, 2010, Martinez asserts the limitations period on his line of credit accrued on December 10, 2010. Wells Fargo contends that its breach of contract claim will not accrue until the contract’s maturity date, which Wells Fargo contends is not until December 31, 2049 or March 31, 2050; alternatively, Wells Fargo argues its cause of action accrued upon acceleration of the contract in February 2019.

We hold Martinez failed to establish accrual on his limitations defense as a matter of law. While Martinez points to some language in the Deed of Trust suggesting a December 10, 2010 maturity date, Wells Fargo points to different language in the Deed of Trust suggesting otherwise. Importantly, the Letter itself does not expressly state a maturity date because the Letter extended to Martinez a revolving line of credit that is not payable on a date certain. *See NAB Asset Venture III, L.P. v. John O’Brien & Associates*, No. 05-96-01453-CV, 1999 WL 88776, at *4 (Tex. App.—

Dallas Feb. 23, 1999, pet. denied) (“Construing the promise to pay to refer to the maximum amount that may be loaned is the only construction which gives meaning to all the terms of the note.”); *see also Kaldis v. Crest Fin.*, 463 S.W.3d 588, 596–97 (Tex. App.—Houston [1st Dist.] 2015, no pet.) (discussing statute of limitations in context of revolving line of credit). Although the contract—which consists of the Letter, the Disclosure, *and* the Deed of Trust—contains apparently inconsistent language, we must harmonize apparently contradictory or inconsistent terms, if possible, to give effect to all the words and the intent of the parties as expressed in the instrument. *Hysaw v. Dawkins*, 483 S.W.3d 1, 13 (Tex. 2016). However, on this record, it is not possible to harmonize various apparently contradictory and inconsistent terms because Martinez did not attach a portion of the contract—the Disclosure. Critically, the real property collateral secured by the Deed of Trust is expressly made “[s]ubject to the terms and conditions of the Disclosure.”

In sum, Martinez failed to establish the date Wells Fargo’s claim accrued as a matter of law because the summary judgment record does not contain the parties’ entire contract, yet the whole contract is required to harmonize apparently inconsistent language within and among the documents constituting a portion of the parties’ contract. Therefore, we sustain Wells Fargo’s first and second issues and hold the trial court erred in granting summary judgment in favor of Martinez based on limitations.

LIABILITY AND DAMAGES

Because contracts must be construed as a whole, Wells Fargo’s failure to attach the Disclosure precludes summary judgment in its favor. *See Brooks v. Excellence Mortgage, Ltd.*, 486 S.W.3d 29, 36 (Tex. App.—San Antonio 2015, pet. denied) (existence of valid contract required to establish breach of contract). Therefore, we overrule Wells Fargo’s third issue and hold the trial court did not err in denying its motion for summary judgment.

CONCLUSION

We affirm the portion of the trial court's order denying Wells Fargo summary judgment on its breach of contract claim, reverse the portion of the trial court's order granting Martinez's summary judgment on this same claim, and remand the case to the trial court for further proceedings.

Lori I. Valenzuela, Justice