

STATE OF MICHIGAN

MACOMB COUNTY CIRCUIT COURT

JUDE CAPITAL, LLC, a Michigan limited liability company,

Plaintiff,

vs.

Case No. 2013-3480-CK

CHOULAGH INVESTMENTS, INC., a Michigan Corporation, ARTHUR CHOULAGH, an Individual, BASIL CHOULAGH, an individual, TP INVESTMENTS, LLC, a Michigan limited liability company, THE HUNTINGTON NATIONAL BANK and STATE OF MICHIGAN ,

Defendants.

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OPINION AND ORDER

Defendant Basil Cholaugh (“Borrower”) has filed a motion for reconsideration of the Court’s January 13, 2014 Order granting Plaintiff partial summary disposition and entering a judgment against Borrower in the amount of \$200,000.00.

Factual and Procedural History

On or about August 17, 2010, Borrower allegedly executed a Secure Note (“Note”) in favor of Ronie Karana (“Lender”) in the amount of \$200,000.00. As security for the Note, Borrower’s company, Defendant Choulagh Investments, Inc. allegedly granted Lender, through an August 17, 2010 Security Agreement (“Security Agreement”), a lien on and security interest in all of its personal property including accounts receivable, machinery, inventory, accounts, equipment and general intangibles (collectively, the “Collateral”). On May 31, 2013, the Note and Security Agreement were assigned by Lender to Plaintiff.

Borrower has allegedly defaulted on its obligations to Plaintiff under the Note. On June 6, 2013, Plaintiff sent Defendants a letter advising them of the defaults. On August 29, 2013, Plaintiff filed its complaint in this matter. On December 17, 2013, Plaintiff filed a motion for partial summary disposition. On January 13, 2013, the Court held a hearing in connection with the motion. At the conclusion of the hearing, the Court granted Plaintiff's motion and entered a judgment against Borrower in the amount of \$200,000.00. Borrower now seeks reconsideration of the January 13, 2013 Order.

Standard of Review

Motions for reconsideration are provided for in MCR 2.119. A motion for reconsideration is addressed to the sound discretion of the trial court. *In re: Beglinger Trust*, 221 Mich App 273, 279; 561 NW2d 130 (1997). Such a motion is not to be granted unless filed within 21 days of the challenged decision. MCR 2.119(F)(1). The moving party must demonstrate a palpable error by which the Court and the parties have been misled and show a different disposition of the motion must result from correction of the error. MCR 2.119(F)(3). A motion for reconsideration which merely presents the same issue(s) ruled upon by the Court, either expressly or by reasonable implication, will not be granted. *Id.* The purpose of MCR 2.119(F) is to allow a trial court to immediately correct any obvious mistakes it may have made in ruling on a motion, which would otherwise be subject to correction on appeal but at a much greater expense to the parties. *Bers v Bers*, 161 Mich App 457, 462; 411 NW2d 732 (1987). Unless the Court directs otherwise, there is no oral argument on the motion for reconsideration. MCR 2.119(F)(2).

Arguments and Analysis

In support of his motion, Borrower asserts that the Court erred in entering the Order because Plaintiff did not submit any documentation, other than the Note, and did not submit a cancelled check as evidence of the debt. The Court is convinced that Borrower's position is without merit.

As Borrower concedes, Plaintiff has submitted a copy of the Note as evidence of the debt in question. Further, Plaintiff has submitted an affidavit of Dante Bacall, Plaintiff's principal, in which he testified that Borrower has failed to submit any of the required payments under the Note. Moreover, Borrower has conceded that he executed the Note, that the Note required that the \$200,000.00 principal be paid by September 1, 2013, and that he failed to pay the principal as required. While the amount of interest due under the Note and the issue of usury remain in dispute, the principal owed has been established. Accordingly, the Court is satisfied that Borrower's motion for reconsideration is properly denied.

Conclusion

For the reasons set forth above, Defendant Basil Cholaugh's motion for reconsideration of the Court's January 13, 2014 Order is DENIED. Pursuant to MCR 2.602(A)(3), this Opinion and Order neither resolves the last pending claim nor closes the case.

IT IS SO ORDERED.

/s/ John C. Foster
JOHN C. FOSTER, Circuit Judge

Dated: January 31, 2014

JCF/sr

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