



By Order of the Court, Judge Joseph N. Camacho

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

FOR PUBLICATION

**IN THE SUPERIOR COURT
FOR THE**



E-FILED
CNMI SUPERIOR COURT
E-filed: Apr 04 2017 01:37PM
Clerk Review: N/A
Filing ID: 60419806
Case Number: 15-0065-CV
N/A

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**ISLA PROPERTY DEVELOPMENT,
INC., dba ISLA DEVELOPMENT
COMPANY,**

Plaintiff,

v.

**STEVE JANG and PIG CORPORATION,
dba RAINBOW PHOTO SHOP,**

Defendants.

CIVIL ACTION NO. 15-0065

**ORDER GRANTING PLAINTIFF’S
MOTION FOR SUMMARY JUDGMENT
AS TO PREJUDGMENT INTEREST
BECAUSE THE CONTRACT
EXPRESSLY PROVIDES FOR INTEREST
TO ACCRUE AND 5 CMC § 3118(d)
FILLS IN THE MISSING INTEREST
RATE WHICH IS NINE PERCENT
PURUSANT TO 7 CMC § 4101**

I. INTRODUCTION

THIS MATTER came before the Court on June 14, 2016 in Courtroom 220A on hearing for Plaintiff’s Motion for Summary Judgment. Plaintiff appeared through Attorney Michael White. Defendant appeared through Attorney Daniel J. Guidotti. At the hearing, Defendant raised an objection to the award for prejudgment interest.

Based on a review of the parties’ filings and applicable law, the Court **GRANTS** Plaintiff’s Motion for Summary Judgment as to prejudgment interest.

II. BACKGROUND

This matter stems from a breach of contract claim. Defendant signed a promissory note (“the contract”) on April 4, 2014.¹ In the opening clause of the contract (“first clause”), the Defendant promised to pay Plaintiff the sum of twenty-nine thousand dollars (\$29,000) on or before October 2014. The contract also contained a clause at the end of the contract (“last clause”), which provided for Plaintiff to collect “the whole unpaid principal balance and accrued interest” in the

¹ The written contract is a one page document. The Court refers to each paragraph of the document as a separate clause.

1 event of Defendant’s non-payment. Defendant subsequently failed to pay the full sum to Plaintiff
2 within the allotted time.

3 On April 14, 2016, Plaintiff filed his motion for summary judgment requesting, in part, a
4 nine percent prejudgment interest rate on the judgment. At the hearing on June 14, 2016, the
5 Defendant admitted all issues except the issue of prejudgment interest. On July 1, 2016, Defendant
6 filed an opposition to Plaintiff’s request for nine percent prejudgment interest and requested a
7 hearing on prejudgment interest. On July 7, 2016, Plaintiff filed a response to Defendant’s
8 opposition arguing that there is no genuine issue of material fact as to prejudgment interest because
9 the contract provides for interest to accrue on any unpaid principal. Defendant filed his reply on
10 July 18, 2016, arguing that the contract does not contain a requirement for payment of interest.

11 III. LEGAL STANDARD

12 “Summary judgment may be granted where ‘there is no genuine issue as to any material fact
13 and the moving party is entitled to judgment as a matter of law.’” *Century Ins. Co. v. Hong Kong*
14 *Entm’t*, 2009 MP 4 ¶ 14 (citing NMI R. Civ. P. 56(c)). At summary judgment, the moving party
15 bears the burden of proof. *Fukuoka v. Dai Ichi Hotel*, 2002 MP 5 ¶ 22 (citing *Santos v. Santos*, 4
16 NMI 206, 210 (1995)). “Once the moving party satisfies the initial burden, the non-moving party
17 must respond by establishing that a genuine issue of material fact exists.” *Id.* ¶ 24. However, “[i]f
18 the non-moving party cannot muster sufficient evidence to make out its claim, a trial would be
19 useless and the moving party is entitled to summary judgment as a matter of law.” *Id.*

20 IV. DISCUSSION

21 Plaintiff argues that there is no genuine issue of material fact as to: (1) whether prejudgment
22 interest should be awarded or (2) the rate of the prejudgment interest. The Court will first address
23 whether prejudgment interest should be awarded.

24 /

1 **1) Prejudgment Interest Should be Awarded**

2 The first clause of the contract does not mention interest, but only provides that Defendant shall
3 pay Plaintiff the sum of twenty-nine thousand dollars on or before October 2015. First Am. Compl.,
4 Ex. A at 1. However, interest is mentioned in the last clause of the contract, which provides:

5 Failure to pay any part of the principal of this note when due, shall authorize the
6 holder of this note to declare immediately due *the whole unpaid principal balance*
7 *and accrued interest*, and exercise any and all rights and remedies possessed by
8 the holder of this note at law or equity.

9 *Id.* (emphasis added).

10 Plaintiff contends that the last clause of the contract expressly provides for interest to accrue
11 on any unpaid sums. Pl.’s Opp’n at 1.² Defendant argues that the contract does not provide for
12 interest because the last clause only grants Plaintiff certain rights, but does not alter the amount
13 Defendant is obligated to pay under the first clause of the contract. Def.’s Reply to Pl.’s Opp’n at 2.

14 Prejudgment interest should be awarded when a contract expressly provides that interest is
15 to accrue on unpaid amounts due under the contract. *Manglona v. Commonwealth*, 2005 MP 15 ¶
16 44-46 (“*Manglona I*”) (finding that prejudgment interest should have been awarded where the
17 contract provided that unpaid sums would accrue interest “at the rate provided by law”). When
18 interpreting a fully integrated contract, the “language in a contract is to be given its plain
19 grammatical meaning unless doing so would defeat the parties’ intent.” *Ada v. Calvo*, 2012 MP 11 ¶
20 10 (citing *Commonwealth Ports Auth. v. Tinian Shipping Co.*, 2007 MP 22 ¶ 17).³ To determine the
21 parties’ intent, the Court looks “only within the four corners of the agreement to see what is actually
22 stated, and not at what was allegedly meant.” *Id.*

23 ² The Court titles the document dated July 6, 2016 and filed by Plaintiff on July 7, 2016 as “Plaintiff’s Opposition” for
24 clarity, though Plaintiff did not include a title in the heading of his filing.

³ The Court notes that whether the contract is fully integrated and whether parol evidence may be admitted are often
part of this inquiry. However, neither party raised the issue of integration or parol evidence.

1 Here, as there is no mention of interest in the first clause of the contract, which discusses the
2 principal and timely payments, the parties did not intend for interest to accrue on the principal itself
3 or timely payments made on the principal. Consequently, interest cannot accrue on the principal or
4 payments timely made on the principal as this would defeat the parties' intent.

5 However, the last clause of the contract states that if Defendant fails to pay any part of the
6 principal when it was due then Plaintiff could "declare immediately due the whole unpaid principal
7 balance and accrued interest." First Am. Compl., Ex. A at 1. The words "and accrued interest"
8 immediately follow "unpaid principal," so logic and the rules of grammar dictate that the accrued
9 interest comes from the unpaid principal. *Id.* The plain meaning of this language is: if the Defendant
10 failed to pay any part of the principal due under the contract, interest was to accrue on the unpaid
11 balance which, in addition to the unpaid sums, Plaintiff would have a right to immediately claim
12 and Defendant would have a duty to immediately pay.

13 Plaintiff, then, has a right to receive interest on amounts not paid within the time constraints
14 of the contract, but has no right to receive interest on the principal amounts that were not due or on
15 timely payments. Hence, interest only accrues on amounts from the time they are past-due until the
16 time these amounts are paid.

17 As the contract provides for interest to be paid on unpaid amounts, prejudgment interest
18 should be awarded and there is no genuine issue of material fact as to this issue. Therefore, Plaintiff
19 is entitled to prejudgment interest on the unpaid amounts due under the contract from the date
20 payment was due. Accordingly, the Court will next address the appropriate rate for this
21 prejudgment interest.

22 **2) Prejudgment Interest Rate**

23 As discussed above, the contract here expressly provides that Plaintiff had a right to
24 immediately call due "the whole unpaid principal balance and accrued interest," which evidences

1 that interest was payable under the contract. First Am. Compl., Ex. A at 1. However, the contract
2 does not provide the interest rate. *See Id.* Plaintiff argues that, as the contract provides for interest
3 but is silent as to the rate of interest, 5 CMC § 3118 applies to fill in the rate of interest. Pl.’s Opp’n
4 at 2.⁴

5 When a contract provides that interest is payable under the agreement without stating a
6 specific rate, the statutory judgment rate should be applied to fill in the missing term. 5 CMC §
7 3118(d)⁵; *Manglona v. Commonwealth*, 2010 MP 10 ¶ 22 (“Manglona II”) (noting in dicta that
8 “when interest is due on commercial paper, but no rate is specified in the instrument, the judgment
9 rate is used, 5 CMC § 3118(d)”). The judgment rate is found in 7 CMC § 4101, which provides,
10 “[e]very judgment for the payment of money shall bear interest at the rate of nine percent a year
11 from the date it is entered.”

12 Here, as the contract provides for interest to accrue without providing an interest rate,
13 pursuant to 5 CMC § 3118(d), the statutory judgment rate should be applied to fill in the missing
14 term. The statutory judgment rate set in 7 CMC § 4101 is nine percent. Accordingly, the
15 appropriate prejudgment interest rate on the unpaid principal is nine percent. Thus, there is no
16 genuine issue of material fact as to the rate of prejudgment interest and Plaintiff is entitled to
17 prejudgment interest at the rate of nine percent.

18 As there is no genuine issue of material fact as to whether prejudgment interest should be
19 awarded or the rate of prejudgment interest, Plaintiff is entitled to summary judgment as to
20 prejudgment interest.

21 /

22 ⁴ Defendant’s only argument on this point is that 5 CMC § 3118 does not apply because this contract does not provide
23 for interest.

24 ⁵ 5 CMC § 3118(d) provides: “Unless otherwise specified a provision for interest means interest at the judgment rate at
the place of payment from the date of the instrument, or if it is undated from the date of issue.”

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

V. CONCLUSION

Accordingly, for the reasons stated above, the Court hereby **GRANTS** Plaintiff's Motion for Summary Judgment as to prejudgment interest at a nine percent interest rate.

IT IS SO ORDERED this 4th day of April 2017.

/s/

JOSEPH N. CAMACHO
Associate Judge



E-FILED
CNMI SUPERIOR COURT
E-filed: Apr 05 2017 09:04AM
Clerk Review: N/A
Filing ID: 60424668
Case Number: 15-0065-CV
N/A

1
2
3 **IN THE SUPERIOR COURT**
4 **FOR THE**
5 **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

5 **ISLA PROPERTY DEVELOPMENT,**)
6 **INC., dba ISLA DEVELOPMENT**)
7 **COMPANY,**)
8)

CIVIL ACTION NO. 15-0065

7 **Plaintiff,**

ERRATA ORDER

8 **v.**

9 **STEVE JANG and PIG CORPORATION,**)
10 **dba RAINBOW PHOTO SHOP,**)
11)

11 **Defendants.**

12 The Court is hereby correcting the Order Granting Plaintiff's Motion for Summary Judgment As
13 To Prejudgment Interest Because The Contract Expressly Provides For Interest To Accrue And 5 CMC
14 § 3118(d) Fills In The Missing Interest Rate Which Is Nine Percent Purusant To 7 CMC § 4101 issued
15 on April 4, 2017.

16 **IT IS HEREBY ORDERED** that the Order Granting Plaintiff's Motion for Summary Judgment
17 As To Prejudgment Interest Because The Contract Expressly Provides For Interest To Accrue And 5
18 CMC § 3118(d) Fills In The Missing Interest Rate Which Is Nine Percent Purusant To 7 CMC § 4101
19 dated April 4, 2017, is amended to read **Pursuant** on page 1 between lines 9-10 in lieu of Purusant. The
20 published opinion shall reflect this change.

21 **IT IS SO ORDERED** this 5th day of April, 2017.

22
23 _____
24 /s/
 JOSEPH N. CAMACHO,
 Associate Judge

By Order of the Court, Judge Joseph N. Camacho