

IN THE COURT OF COMMON PLEAS IN THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

ALLISON FARAJ,)
) C.A. No. CPU5-09-001938
 Plaintiff,)
)
)
 v.)
)
 DELLA S. FRASER, CRAIG LONG,)
)
)
 Defendants.)

February 28, 2012

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DECISION AFTER TRIAL

This civil case is a debt action filed by the plaintiff, Allison Faraj (Faraj), against the defendants, Craig Long (Long) and Della S. Fraser (Fraser), for the repayment of loans that Faraj allegedly made to them. A trial was held for this matter and the Court reserved decision. After careful consideration of the evidence introduced at trial and the parties' arguments, the Court finds for the defendants and judgment is entered accordingly.

FACTS

Plaintiff Allison Faraj (Faraj) is a sister to Defendant Craig Long (Long) and knows his longtime girlfriend, with whom he lives, Defendant Della S. Fraser (Fraser), who is also known as Della Sargent. The three of them were once very close. While Faraj was married and living in Florida, prior to 2006, she stayed in close contact with the defendants, who lived in Delaware. She and Fraser were by all accounts best friends. By the end of 2005, Faraj's marriage had failed and she decided to move to Delaware to be close to the rest of her family, including the defendants. A property a few doors down from the defendants was for sale. It was only natural that Faraj purchase the property so that she could live near her brother, Long, and her best friend, Fraser.

Faraj purchased the property located near her brother in February 2006 and made plans to move to Delaware and have Long manage the construction of her new home. About the same time, the defendants were renovating and doing improvements to their own home. In March 2006, Faraj gave the defendants a check for \$20,000 to help them with their home improvements. She claims that the money was a loan to the defendants and that she expected full repayment of the amount in monthly installments of \$500 each commencing when she finally moved into her new home in Delaware. The defendants contend, and have presented substantial evidence, that the \$20,000 was meant as a payment to Long for his fee to act as the construction manager for the construction of Faraj's new Delaware home. All agreements were oral. There were no written contracts.

Later in 2006, Faraj claims that she gave the defendants another \$5,000 check which was meant to be an additional amount to be added to her loan to them. However,

she never found a copy of the check to introduce into evidence and the defendants contend that they never received such a check. Faraj also paid for some additional items during the construction of her home in the amount of \$693 that she alleges is part of the same loan deal. However, the defendants presented evidence that these amounts were expenses that she agreed to pay during the construction of her home.

During June of 2006, Faraj moved to Delaware with her son and lived with the defendants while her home was being constructed. Work commenced on her lot and the construction of her home in very late 2006, early 2007. Long worked as the construction manager on her home. He ordered the materials for the house and took delivery. He also managed the construction which was pretty much performed on a volunteer basis by family members and family friends.

As the construction on Faraj's new home was commencing, she received a pick up truck from her ex-husband. Long used the truck while Faraj used Fraser's car. At some point, the defendants agreed to purchase the truck from Faraj for \$4,000 and to pay an additional \$100 per month for insurance on the truck while payments were being made. The defendants made four \$500 payments on the truck before returning it back to Faraj, pursuant to her demand. While Faraj claims the \$500 payments that were made by the defendants were payments on the total loans due to her, including the \$20,000 loan, the \$5,000 loan, the \$693 loan for miscellaneous expenses and the loan for the truck, the Court finds that the payments were actually all attributable to the truck loan. After Faraj regained possession of the truck, she sold it to her current boyfriend for the total sum of \$4,000.

Faraj and the defendants had a dispute in August of 2007 and Faraj moved out of the defendants' home. Long continued working on Faraj's home for a short period of time, but, then, walked off the job and other family members came in and finished it. By April 2008, Faraj moved into her new home. Eventually, the relationship between the parties got better. Then, in October 2008, Faraj and the defendants had another falling out. The defendants returned the truck to Faraj at her request about that time and did not make another payment on it or any other amounts allegedly due.

Faraj has filed suit against the defendants seeking \$28,693 in damages, together with court costs and post-judgment interest, for repayment on her oral loan agreement with them. The defendants have responded that Faraj is not entitled to any additional amounts as they returned the truck to her and the other amounts they received from her were meant to compensate Long for his work and expenses as the construction manager for her home.

DECISION

I. The Loans

Faraj bears the burden of proof, by a preponderance of the evidence, that she is entitled to the reimbursement of any money that she has provided to the defendants. *First State Constr., Inc. v. Thoro-Good's Concrete Co., Inc.*, 2010 WL 1782410, at *3 (Del. Super.). The main issue in this regard is whether any of the money that Faraj gave to the defendants was a loan or whether Faraj's payments were made to the defendants for Long's services as the construction manager for Faraj's new home and for the reimbursement of expenses on the home. The Court finds that Faraj has failed to meet

her burden to prove that the money she gave to the defendants was given pursuant to an oral loan agreement.

Faraj can only prove that she gave \$20,963 to the defendants. The Court finds that she did not give the other \$5,000 check to the defendants. The defendants denied receiving the check and Faraj was not able to find a copy of any such check to introduce into evidence when she searched for it.

Faraj has also failed to meet her burden of proof that the \$20,693 that she gave to the defendants was pursuant to an oral loan agreement. The Court finds the testimony of the defendants and their witnesses to be more convincing. The \$20,693 in payments made by Faraj were intended to compensate Long for his services as the construction manager for the construction of her new home and to pay expenses associated with the construction of the home. If Faraj expected to be repaid for these amounts, she should have had a written loan agreement prepared. It is important to remember that sometimes an oral agreement is not worth the paper it is written on. It is often difficult for the aggrieved party to prove that such an agreement existed.

II. The Sale of the Truck

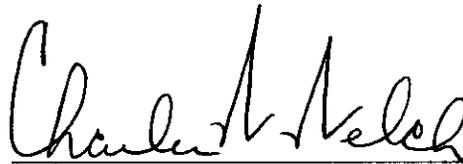
It is undisputed that Faraj sold a truck to the defendants and that the defendants eventually returned the truck to her so that she could sell it to her boyfriend at the time. The defendants agreed to pay a sales price of \$4,000 to Faraj for the truck. They paid a total of \$1,600 to Faraj on this balance by making four \$500 payments, with \$100 of each payment intended for automobile insurance. When the defendants returned the truck to Faraj, they owed \$2,400 on the balance due for the truck. Faraj then sold the truck to her

boyfriend for \$4,000. Therefore, she did not realize a loss on her sale of the truck to the defendants. In fact, she realized a \$1,600 gain, actually receiving more on the truck than originally intended. Since Faraj did not realize a loss on the sale of her truck to the defendants, she is not entitled to any award of damages.¹

CONCLUSION

Faraj has failed to prove that any money that she gave to the defendants was provided pursuant to an oral loan agreement. She has also failed to prove that she has incurred any damages as a result of her sale of her truck to the defendants. Therefore, judgment is entered for the defendants.

IT IS SO ORDERED THIS 28th DAY OF February, 2012.



CHARLES W. WELCH
JUDGE

¹ The Court did not determine whether the defendants breached their agreement to purchase the truck with Faraj due to the fact that it was clear to the Court that Faraj did not incur any damages as a result of the sale.