SUPREME COURT OF MISSISSIPPI

Harrison Enterprises, Inc. v. Trilogy Communications, Inc.

818 So. 2d 1088 (Miss. 2002) · No. No. 2000-CA-01345-SCT · Decided February 14, 2002

SUMMARY

The Supreme Court of Mississippi affirmed summary judgment for Trilogy Communications in its action to collect an open-account debt from Harrison Enterprises and its individual guarantor. The court held that a letter acknowledging the overdue account and promising payment in full was sufficiently definite to toll the statute of limitations, and that equitable estoppel would also prevent reliance on the limitations period. It further held that the guarantor's limitations period began after the principal debtor became unable to pay.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Cobb, J., for the Court; Cobb, J.; Smith, P.J.; Waller, J.; Carlson, J.; McRae, P.J.; Diaz, J.; Easley, J.; Graves, J.; Pittman, C.J. (not participating)
JURISDICTION	Mississippi
DECIDED	February 14, 2002
DOCKET	No. 2000-CA-01345-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a circuit-court order granting the plaintiff's motion for summary judgment in an open-account collection action and denying defendants' motion for judgment on the pleadings or, alternatively, summary judgment.
STANDARD OF REVIEW	De novo review of summary judgment; the evidence is viewed in the light most favorable to the nonmoving party, and summary judgment is proper when the pleadings, discovery materials, and affidavits show no genuine issue of material fact and the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published, precedential Mississippi Supreme Court decision; en banc.
PARTIES	Harrison Enterprises, Inc. d/b/a Paulding Cable Company, Elvin Lee Harrison, Jr. v. Trilogy Communications, Inc.

TOPICS

statute of limitations · summary judgment · commercial litigation · contracts · civil procedure

PRACTICE AREAS

contracts · commercial litigation · civil procedure · statute of limitations

QUESTIONS PRESENTED

1. Whether the June 10, 1997 letter constituted a definite and unequivocal acknowledgment of the debt and promise to pay sufficient to toll the statute of limitations on the open-account claim.
2. Whether equitable estoppel would prevent defendants from asserting the statute of limitations even if the letter did not toll it.
3. When the statute of limitations began to run against Elvin Lee Harrison as a secondary guarantor.
4. Whether summary judgment was proper because no genuine issue of material fact existed and Trilogy was entitled to judgment as a matter of law.

HOLDINGS

1. The letter was a definite and unequivocal written acknowledgment of the indebtedness and promise to pay, and therefore tolled the three-year statute of limitations applicable to the open account.
2. Even if the letter had not tolled the statute, defendants would be equitably estopped from asserting the statute of limitations because their repeated promises and assurances induced Trilogy to delay filing suit.
3. Because Harrison was secondarily liable under his personal guarantee, the statute of limitations did not begin to run against him until the prescribed condition of Harrison Enterprises' inability to pay occurred, which was at least after the June 10, 1997 letter.
4. Summary judgment for Trilogy was proper because defendants failed to assert a viable defense, there was no genuine issue of material fact, and Trilogy was entitled to judgment as a matter of law.

KEY QUOTATIONS

> *"The letter is sufficient to toll the statute of limitations; therefore, this issue is without merit."* (818 So. 2d at 1095)

> *"Thus, Trilogy has satisfied its burden of proving by a preponderance of the evidence the elements necessary to invoke the extraordinary remedy of equitable estoppel."* (818 So. 2d at 1096)

> *"Since Harrison Enterprises and Harrison had failed to assert a viable defense to the action and there was no material issue of fact, Trilogy was entitled to a judgment as a matter of law."* (818 So. 2d at 1097)

FACTUAL BACKGROUND

Trilogy sold and delivered goods to Harrison Enterprises on an open account, and the company owed $71,453.75 by August 1996. Harrison had signed a personal guarantee for the company's debts. After repeated collection efforts and promises to pay, Harrison Enterprises sent Trilogy a June 10, 1997 letter acknowledging that its account was overdue and stating that, if given until the middle of August, it would be able to pay the account in full. The account was not paid, and Trilogy filed suit on October 28, 1998.

PROCEDURAL HISTORY

Trilogy sued Harrison Enterprises and Elvin Lee Harrison in the Rankin County Circuit Court for the unpaid balance of an open account, accrued interest, and attorney fees. After discovery, both sides moved for summary judgment; the circuit court granted Trilogy's motion, found that the statute of limitations had not run and that defendants had no viable defense, and entered a joint-and-several judgment of $88,453, including $17,000 in attorney fees. Defendants timely appealed, and the Supreme Court of Mississippi affirmed.

DISPOSITION

affirmed

CASES CITED

- Gant v. Maness, 786 So. 2d 401, 403 (Miss. 2001)
- Ainsworth v. Stroud, 765 So. 2d 598, 601 (Miss. Ct. App. 2000)
- United States Fid. & Guar. Co. v. Krebs, 190 So. 2d 857, 861-62 (Miss. 1966)
- Trustees of Canton Female Acad. v. Gilman, 55 Miss. 148 (1877)
- Fletcher v. Gillan, 62 Miss. 8 (1884)
- Philp v. Hicks, 112 Miss. 581, 73 So. 610 (1917)
- Dyer v. Lowe, 201 Miss. 516, 29 So. 2d 324 (1947)
- Heflin v. Kinard, 67 Miss. 522, 7 So. 493 (1890)
- McArthur v. Acme Mech. Contractors, Inc., 336 So. 2d 1306, 1308 (Miss. 1976)
- Blount v. Miller, 172 Miss. 492, 160 So. 598 (1935)
- Allen v. Hillman, 69 Miss. 225, 13 So. 871 (1891)
- PMZ Oil Co. v. Lucroy, 449 So. 2d 201, 206 (Miss. 1984)
- EB, Inc. v. Smith, 757 So. 2d 1017, 1021-22 (Miss. Ct. App. 2000)
- Bright v. Michel, 242 Miss. 738, 137 So. 2d 155, 159 (1962)
- Miss. Dep't of Pub. Safety v. Stringer, 748 So. 2d 662, 665 (Miss. 1999)
- Associates Commercial Corp. v. Parker Used Trucks, Inc., 601 So. 2d 398, 402 (Miss. 1992)
- Brent v. National Bank of Commerce, 258 So. 2d 430, 434 (Miss. 1972)
- Sweeney v. Preston, 642 So. 2d 332, 336 (Miss. 1994)
- Smith v. Sanders, 485 So. 2d 1051, 1053 (Miss. 1986)