



IN THE COURT OF APPEALS OF IOWA

ALTORFER MACHINERY COMPANY,	)	
Plaintiff/Appellee/Cross-Appellant,	)	Filed August 30, 1983
vs.	)	<u>3-142</u>
JOE R. BROWN,	)	2-68916
Defendant/Appellant/Cross-Appellee.	)	

Appeal from Linn District Court, August F. Honsell, Judge.

Defendant appeals and plaintiff cross-appeals from the trial court's decision entering judgment on a "Findings of Fact and Conclusions of Law" rendered nearly ten years earlier. **AFFIRMED AS MODIFIED.**

Kenneth E. Wright of Goodenow, Right & Machowski, Maquoketa, for defendant-appellant.

John M. Bickel and Diane Kutzko of Shuttleworth & Ingersoll, Cedar Rapids, for plaintiff/appellee/cross-appellant.

Considered by Oxberger, C.J., and Donielson, Snell, Schlegel, and Hayden, JJ.

OXBERGER, C.J.

Defendant appeals from the trial court's decision entering judgment on a "Findings of Fact and Conclusions of Law" rendered nearly ten years earlier. Plaintiff cross-appeals from the trial court's failure to award interest for the period during which the judgment remained unentered. We affirm the trial court's entry of judgment, but modify its award of interest so as to conform with the provisions of the judgment as originally rendered.

Defendant purchased construction machinery from plaintiff in 1958. He defaulted on his payments in 1960, and plaintiff repossessed the equipment and sold it in 1961. Plaintiff filed suit for the deficiency, which amounted to \$9,185.63. The case was tried on October 8, 1972. In its "Findings of Fact and Conclusions of Law," which were filed on October 24, the trial court held that plaintiff was entitled to \$16,702.44 (\$9,185.63 in principal and \$7,516.81 in interest), with additional interest on the principal at the rate of 7 percent per annum from and after September 8, 1972. The trial court also directed plaintiff's counsel to prepare a judgment order for the entry of that judgment.

On June 7, 1982, plaintiff filed an "Application for Entry of Judgment." No explanation was provided concerning the long delay. Defendant filed a "resistance to Application for Entry of Judgment," alleging that entry of the judgment was barred either by statute of limitations or by laches. The court rejected defendant's arguments, and entered judgment for plaintiff in the amount of \$16,702.44, together with interest on \$9,185.63 at 7 percent per annum from the date of entry of the judgment.

On appeal, defendant asserts that judgments must be entered within a reasonable time, that ten years is not a reasonable time, and that the court should not have entered the judgment. Defendant also asserts that the doctrine of laches bars plaintiff's application for entry of judgment. On cross-appeal, plaintiff argues

that it is entitled to interest from the date judgment was rendered, contrary to the district court's order, which only allowed interest from the date the judgment was entered.

I. Entry of Judgment

The primary issue raised in this appeal concerns whether a judgment may properly be entered ten years after the court has rendered its decision of the case. Defendant argues that a long unexplained delay between the rendition of judgment and the application for entry thereof is a bar to the entry of that judgment. We do not agree.

Under prevailing Iowa law, lapse of time is not a bar to the entry of judgment. The Iowa Code does not specify any statutory period during which judgment must be entered. Indeed, Iowa Rule of Civil Procedure 120 provides that the court may enter judgment "at any time after the matter has been submitted." (emphasis added).

Mere delay does not work a loss of the court's jurisdiction to enter judgment. See 49 CJS Judgments § 113, at 240. In Fuller & Co. v. Stebbins, 49 Iowa 376 (1878), the supreme court upheld the entry of judgment nunc pro tunc three and a half years after its rendition on the ground that "[c]ourts possess the inherent authority to enter judgments nunc pro tunc, and time will not bar its exercise." Id. at 377. In Arnd v. Posten, 199 Iowa 931, 933, 203 N.W. 260 (1925), the court reiterated that "[i]t is fundamental law that courts possess the inherent power to correct the record and enter judgments nunc pro tunc, and a lapse of time is no obstacle to the exercise of such power." While we are cognizant of the fact that the cited cases involved lapses of much shorter duration than the present case, we point out that the supreme court has never suggested that the duration of the lapse might become material insofar as the authority of the court to enter judgment is concerned. We note that there is a practical limit, since a judgment

in Iowa creates a valid lien for a period of ten years from the rendition of judgment. Iowa Code section 624.23.

II. Laches

Defendant raises the doctrine of laches, and argues that it poses a bar to entry of judgment in the present case. The district court rejected this argument, and so do we.

Laches is defined as "such delay in enforcing one's rights as works disadvantage to another." In re Shivvers' Estate, 34 N.W.2d 632, 637, 240 Iowa 93 (1948). The mere lapse of time does not constitute laches; actual material prejudice to an adverse party from such delay is an essential element. Moody v. Christianson, 306 N.W.2d 775, 777 (Iowa 1981). Moreover, "[l]aches is an affirmative defense which must be established by clear, convincing, and satisfactory proof." Chicago R.I. & P.R. Co. v. City of Iowa City, 288 N.W.2d 536, 541 (Iowa 1980).

Defendant has failed to prove that he has been prejudiced by plaintiff's long delay in seeking entry of judgment. He argues that he has been prejudiced by the loss of material evidence during the delay. The material evidence he claims to have been lost consists of his attorney's file. We note that while the file may have been lost, the transcript of the entire proceeding was preserved and is available to defendant for purposes of appeal. We also point out that defendant has made no attempt to demonstrate how the loss of his attorney's file has actually prejudiced him. The doctrine of laches, therefore, does not apply.

III. Interest

The rule in Iowa provides that interest is allowed from the date a claim has been liquidated. Vorthman v. Keith E. Myers Enterprises, 296 N.W.2d 772, 778 (Iowa 1980). We are of the opinion that plaintiff's claim was liquidated

immediately upon resale after defendant's default, and that interest on the deficiency was properly computed by the trial court in 1972. We are not aware of the reason why the court entering judgment did not award interest on the deficiency between the time judgment was rendered and the time judgment was entered. We therefore modify the award of interest to provide for interest at the rate of 7 percent per annum on the principal sum of \$9,185.63 from the date judgment was rendered, as was provided in the trial court's Findings of Fact and Conclusions of Law, dated October 24, 1972.

AFFIRMED AS MODIFIED.