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IN THE COURT OF APPEALS OF IOWA

EOB CORPORATION, an Iowa corporation, Gifford Mast, President, Plaintiff-Appellant, vs. **LAMAND MORTGAGE COMPANY,** an Iowa corporation, George Andreola, President, Defendant-Appellee.	)	Filed March 23, 1982 2-63 2-66760

Appeal from Scott District Court - John J. Carlin, Judge.

Plaintiff-borrower appeals from judgment favorable to defendant-mortgage broker on its counterclaim in an action seeking return of commission deposit in brokerage agreement. AFFIRMED.

Clemens J. Werner, Jr., of Werner & Werner, Davenport, Iowa, for plaintiff-appellant.

Lawrence J. Lammers, Davenport, Iowa, for defendant-appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Plaintiff-borrower appeals from judgment favorable to defendant-mortgage broker on its counterclaim in an action seeking return of commission deposit in brokerage agreement. The action in the court below, having been tried at law, is reviewed on errors assigned. Iowa R. App. P. 4.

Plaintiff and defendant entered into a written agreement on January 25, 1978, which provided in part as follows:

> The undersigned [plaintiff] hereby grants you [defendant] the exclusive authorization for a period of sixty days after receipt of all documents, forms, requested services, and other information to be made a part of this exclusive application, to obtain a commitment from an investor and issue a mortgage covering the hereinafter described property in the principal sum of $270,000.00. The undersigned agrees to execute all documents and submit any additional data required by you or investor. * * *
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> The undersigned certifies that no application will be made part to any other lender of agency until the herein named Financial Agent has had a reasonable period of time, but at least sixty days to review the proposed loan with an investor and advise the undersigned of its acceptance or rejection of this application. * * *

The agreement further provided that plaintiff deliver to defendant a deposit of $5400 to apply toward the brokerage fees to be earned under the agreement (2% of $270,000) and the broker's out-of-pocket expenses. This deposit was delivered to defendant by plaintiff on the day the agreement was executed.

Thereafter, on February 27, 1978, plaintiff caused a title opinion on the subject property to be delivered to defendant, and on March 7, 1978, caused a survey of the property to be delivered to defendant. The evidence at the trial indicated, and the trial court found, based upon substantial evidence in the record, that both of these items were necessary to defendant's efforts to secure a mortgage commitment. On March 27, 1978, plaintiff wrote defendant declaring that the agreement had expired as a result of defendant's failure to produce a commitment within the sixty-day period and requesting return of the $5400 deposit, less any reasonable expenses already incurred by defendant. Defendant declined to return any portion of the deposit on the basis that the time for performance had not yet expired.

This action followed in which the trial court determined that the time of performance was to be measured from the time the necessary documentation was delivered to defendant rather than from the date the agreement was executed. It found that there had been an anticipatory breach and that defendant, on its counterclaim, was entitled to recover a commission of $5400 plus out-of-pocket expenses of $1800. As a result of setting off the $5400 deposit in defendant's possession against the amount found to be owed, judgment was entered in defendant's favor for $1800. This appeal followed.

Plaintiff's contentions on appeal are that: (1) the agreement is ambiguous as to the time of performance and therefore should be construed against the defendant who prepared it, and (2) that the agreement, as interpreted by the trial court, is contrary to the doctrine of reasonable expectation and, in addition, unconscionable. We reject these contentions.

In the construction of written contracts, the cardinal principle is that the intent of the parties must control; that except in cases of ambiguity, this is determined by what the contract itself says. Iowa R. App. P. 14(f)(14); Kinney v. Capitol-Strauss, Inc., 207 N.W.2d 574, 576-77 (Iowa 1973). When this rule is applied to the facts of the present case, we find no basis for rejecting the trial court's interpretation based upon the clear language of the agreement that the time for performance was "sixty days after receipt of all documents, forms, requested services, and other information to be made a part of this exclusive application." To adopt plaintiff's contention is to disregard the clear import of the contractual wording.

The matter at issue is one which has no right or wrong answer except as agreed to by the parties. Because, under the principles heretofore alluded to, the contract wording must be taken as a reflection of the intention of the parties, we cannot say that the trial court's interpretation is contrary to reasonable expectations or unconscionable.

Plaintiff does not challenge the trial court's findings as to anticipatory breach and resulting damages in any respect other than the method of computing time of performance. As to this contention, we have found no merit and therefore affirm the trial court's judgment.

AFFIRMED.