

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

	:	
REPUBLIC FIRST BANK,	:	JANUARY TERM, 2012
	:	
Plaintiff	:	NO. 03599
	:	
v.	:	COMMERCE PROGRAM
	:	
CRYNELL PROPERTIES, LLC.	:	CONTROL NO. 13102376
	:	
Defendants	:	
	:	
REPUBLIC FIRST BANK,	:	FEBRUARY TERM, 2012
	:	
Plaintiff	:	NO. 00165
	:	
v.	:	COMMERCE PROGRAM
	:	
COLLINS COLLISION CENTER, INC, ET AL.,	:	CONTROL NO. 13102376
	:	
Defendants	:	
	:	

OPINION

GLAZER, J.

December 10, 2013

PROCEDURAL AND FACTUAL HISTORY

Plaintiff, Republic First Bank (“Republic”), commenced the current action when it filed a Complaint of Confessed Judgment against the consolidated defendants Crynell Properties, LLC and Collins Collision Center, Inc, et al. Defendants were successful in their Petition to Open the Confessed Judgment, and plaintiff now brings a Motion for Summary.

This action is based on two commercial loans made by Republic to defendants. On or around April 24, 2006, the parties entered into a promissory note, business loan agreement,

commercial guarantees and open-ended mortgage for the amount of \$205,000 with a maturity date of May 1, 2011. The second loan occurred on or around February 20, 2007 in which the parties entered into a promissory note, open-ended mortgage and business loan agreement in the amount of \$75,000. These two loans will hereinafter be collectively referred to as the “loan agreements.” Then, in or around April 2011, the parties orally agreed to extend the maturity date of the April 2006 loan to January 1, 2012. See Complaint in Confession of Judgment, ¶9. Defendants allege that around December 2011, the parties had been in discussion to refinance the terms of the loan agreements. See Defendants’ Brief in Support of Petition to Open, pp. 3. On January 1, 2012, defendants paid its monthly obligation under the loan, but failed to pay the remaining unpaid principal and accrued interest in full.

Subsequently, on or around January 19, 2012, defendants received a notice of default under the loan agreements, and plaintiff thereafter executed a confessed judgment them. Following arguments on defendants’ Petition to Open and/or Strike, The Honorable Leon Tucker opened the judgments by Orders dated May 17 and 29, 2012. Finally, on August 27 and September 20, 2012, Case Nos. 120200165 and 120103599 respectively were assigned to the Commerce Program.

Republic now brings a motion for summary judgment to uphold the judgments entered against defendants. For the reasons detailed below, the motion is granted.

DISCUSSION

Summary judgment shall be granted when, “there is no genuine issue of any material fact as to a necessary element of the cause of action or defense. . . .” Pa.R.C.P. No. 1035.2.

Additionally, “[i]n considering the merits of a motion for summary judgment, a court views the record in the light most favorable to the non-moving party, and all doubts as to the existence of a

genuine issue of material fact must be resolved against the moving party.” Fine v. Checcio, 582 Pa. 253, 265, 870 A.2d 850, 857 (2005). Summary judgment may be granted only when the judgment is “clear and free from doubt.” Checcio, 582 Pa. at 253 (2005) (citing Marks v. Tasman, 527 Pa. 132, 589 A.2d 205, 206 (1991)).

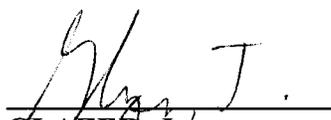
Defendants assert there is an issue of material fact regarding whether an event of default occurred. The terms of the loan agreements specify that final payment of all principal and accrued interest not yet paid will be due on May 1, 2011. See Complaint in Confession of Judgment, Exhibit A. It also states that “[t]his agreement together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.” Id. at Exhibit B. Prior to May 1, 2011, plaintiff orally extended the maturity date to January 1, 2012. Id. at ¶9. Defendants claim that until January 1, 2012, they met their monthly obligations under the loan agreement. See defendants’ memorandum of law in response to plaintiff’s motion for summary judgment, pp. 6. Defendants also allege that they had been in the course of negotiation with Republic to refinance the terms of the loan agreement when it received the letter of default. See id. However, defendants cannot overcome the fact that the original loan agreement mandates that all amendments, such as an extension of the maturity date, be put in writing and signed by the party bound by the alteration. When plaintiff voluntarily extended the maturity date to January 1, 2012, both parties failed to put the terms in writing and sign it accordingly. While Republic might have been able to bring a confessed judgment against defendants in May 2011 for the unpaid portion of the loan, since the extension was not in writing and signed by the necessary parties, plaintiff abided by their oral agreement and granted

defendants until January 1, 2012 to pay in full. But on January 1, 2012, defendants failed to pay the remaining balance in its entirety. Therefore, since defendants did not repay the loan in full by May 1, 2012, or plaintiff's orally extended date of January 1, 2012, this court holds there are no genuine issues of material fact as to whether defendants defaulted under the terms of the loan agreement.

CONCLUSION

Based on the foregoing, plaintiff's motion for summary judgment is granted.

BY THE COURT:



GLAZER, J.