

[Cite as *U.S. Bank Natl. Assn. v. Wagner*, 2002-Ohio-2184.]

**COURT OF APPEALS
THIRD APPELLATE DISTRICT
ALLEN COUNTY**

U.S. BANK NATIONAL ASSOCIATION CASE NUMBER 1-02-02

PLAINTIFF-APPELLEE

v.

OPINION

HARRY H. WAGNER, JR., ET AL.

DEFENDANTS-APPELLANTS

and

**OHIO BUREAU OF EMPLOYMENT SERVICES,
ET AL.,**

DEFENDANTS-APPELLEES

**CHARACTER OF PROCEEDINGS: Civil Appeal from Common Pleas
Court.**

JUDGMENT: Judgment affirmed.

DATE OF JUDGMENT ENTRY: May 3, 2002.

ATTORNEYS:

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For Appellants.**

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For Plaintiff-Appellee.

DAVID BOWERS
Prosecuting Attorney
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For Appellee, Allen County Treasurer.

PER CURIAM.

{¶1} Defendant-Appellants, Harry H. Wagner, et al., bring this appeal from an Allen County Common Pleas Court decision granting summary judgment in favor of Plaintiff-Appellee, U.S. National Bank, as Trustee, and other similarly situated institutions.

{¶2} This appeal arises from approximately sixty separate actions filed in the Common Pleas Court of Allen County, Ohio, in which Appellee and other similarly situated parties sought to foreclose upon notes and mortgages executed by Appellants. The foreclosure actions were consolidated in the trial court for briefing purposes. Plaintiff moved for summary judgment, and Appellants responded thereto. On January 3, 2001, the trial court granted summary judgment in the plaintiffs' favor. Thereafter, a decree in foreclosure was issued upon the

note and mortgage held by Appellee. This appeal followed, and Appellants now assert eight assignments of error.

{¶3} THE LOWER COURT ERRED IN DETERMINING THAT THERE WAS NO MATERIAL ISSUE OF FACT WITH REGARD TO APPELLANTS' CLAIM OF NEGLIGENT MISREPRESENTATION.

{¶4} THE LOWER COURT ERRED IN DETERMINING THAT THERE WAS NO ISSUE OF FACT WITH REGARD TO APPELLANTS' CLAIM OF FRAUD.

{¶5} THE LOWER COURT ERRED IN DETERMINING THAT THERE WAS NO ISSUE OF FACT WITH REGARD TO APPELLANTS' CLAIM OF PROMISSORY ESTOPPEL.

{¶6} THE LOWER COURT ERRED IN DETERMINING THAT THERE WAS NO ISSUE OF FACT WITH REGARD TO APPELLANTS' BREACH OF CONTRACT CLAIM.

{¶7} THE LOWER COURT ERRED IN DETERMINING THAT THERE WAS NO ISSUE OF FACT WITH REGARD TO APPELLANTS' CLAIM OF BREACH OF THE DUTY OF GOOD FAITH.

{¶8} THE LOWER COURT ERRED IN DETERMINING THAT THE PAROLE EVIDENCE RULE BARS APPELLANTS' CLAIMS AND DEFENSES.

{¶9} THE LOWER COURT ERRED IN DETERMINING THAT THERE WAS NO GENUINE ISSUE OF FACT AS TO WHETHER APPELLEES ARE HOLDERS IN DUE COURSE.

{¶10} THE LOWER COURT ERRED IN GRANTING SUMMARY JUDGMENT.

{¶11} The issues, arguments, and factual context presented in the assigned errors are identical to those previously presented by Appellants and addressed by

Case No. 1-02-02

this Court in *Bankers Trust Co. ex rel Salomon Bros. Mortgage Securities VII, Inc., et al v. Harry H. Wagner & Sons, Inc., et al.* (Dec. 28, 2001), Allen App. Nos. 1-01-17, 1-01-18, 1-01-19, 1-01-20, 1-01-21, 1-01-22, 1-01-23, 1-01-24, 1-01-25, 1-01-26, 1-01-28, 1-01-29, 1-01-30, 1-01-31, 1-01-32, 1-01-33, 1-01-34, 1-01-35, 1-01-36, 1-01-37, 1-01-38, 1-01-39, 1-01-40, unreported. In those cases, we held that the trial court properly determined that no genuine issue of material fact remained to be litigated. Accordingly, on that authority, Appellants' eight assignments of error are overruled.

{¶12} For these reasons, the judgment of the Court of Common Pleas of Allen County, Ohio, is affirmed.

Judgment affirmed.

SHAW, P.J., HADLEY and WALTERS, JJ., concur.