

Dennis L. YOUNG and Virginia M. YOUNG v.  
Gerhard W. STAUDE and Elsie M. STAUDE

83-81

657 S.W.2d 542

Supreme Court of Arkansas  
Opinion delivered September 26, 1983

MOTIONS — MOTION FOR SUMMARY JUDGMENT — TRIAL COURT  
CANNOT GRANT RELIEF BEYOND THAT PRAYED FOR IN MOTION. —  
A trial court cannot grant relief beyond that prayed for in the  
motion for summary judgment in ruling on that motion.

Appeal from Marion Chancery Court; *Stephen W.  
Luelf*, Chancellor; reversed and remanded.

*Smith & Kelly*, by: *Michael E. Kelly*, for appellants.

*J. F. Atkinson, Jr.*, for appellees.

DARRELL HICKMAN, Justice. This chancery case is reversed and remanded because the trial court, on its own, ordered reformation of a promissory note and deed of trust when the only matter before the court was a motion for summary judgment on the issue of usury.

The appellants, residents of Texas, sued the appellees, residents of Louisiana, to cancel a land transaction concerning property in Marion County, Arkansas. The suit was for rescission or, in the alternative, to declare the note void for usury. The note provided for 10-1/2 percent interest on its face.

The appellants filed a motion for summary judgment asking the court to declare the note usurious and, therefore, void. The trial court denied summary judgment but went on to reform the agreement to provide for 10% interest. That relief was not asked for in the motion for summary judgment and could not be granted. The appellees did have an informal brief arguing for reformation apparently after the court asked the parties to submit briefs on the issue. A trial court cannot grant relief beyond that prayed for in the

motion for summary judgment in ruling on that motion.  
*See Evans v. U.S. Anthracite Coal Co.*, 180 Ark. 578, 21  
S.W.2d 952 (1929); *Danco Construction Co., Inc. v. City of  
Fort Smith*, 268 Ark. 1053, 598 S.W.2d 437 (1980).

Reversed and remanded.

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