

FIRST STATE BANK OF SPRINGDALE, Arkansas
v. Charles W. SHAVER and Darlena SHAVER,
Husband and Wife

82-203

659 S.W.2d 504

Supreme Court of Arkansas
Opinion delivered October 31, 1983

APPEAL & ERROR — EFFECT OF UNTIMELY FILING OF NOTICE OF APPEAL. — Where the notice of appeal is not filed within the statutory time limit provided for in Ark. R. App. P. Rule 4 (a), the judgment of the lower court will be affirmed and the appeal dismissed.

Appeal from Washington Chancery Court; *John Linberger*, Chancellor; affirmed.

Herdlinger, Jacoway & Stanley, by: *Roy E. Stanley*, for appellant.

No brief for appellees.

RICHARD B. ADKISSON, Chief Justice. Appellant, First State Bank, junior mortgagee in a foreclosure action against appellees, Charles and Darlena Shaver, sought summary judgment in foreclosure of a business loan of \$46,902.57 made September 5, 1980. The Washington County Chancery Court found the loan agreement to be usurious under the governing federal law, section 511 of the Monetary Control Act of 1980 (12 U.S.C. § 86a) and ordered, as remedy, all payments made by the Shavers to be credited as principal.

Since an examination of the record reflects the appeal is from the original judgment, this case is governed by our per curiam in *First State Bank of Springdale v. Shaver*, 279 Ark. 30, 648 S.W.2d 453 (1983) in which we held that the notice of appeal was not filed within the statutory time limit provided for in Ark. R. App. P. Rule 4 (a). The judgment of the lower court is affirmed and the appeal is dismissed.