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Published Fourth Circuit Opinion On Maryland Credit Law Relies On Unpublished Opinion

12 Aug 2015

In a published opinion that relied upon the reasoning of a previous unpublished opinion, the U.S. Court of Appeals for the Fourth Circuit held in *Gardner v. GMAC* that the Maryland Credit Grantor Closed End Credit Provisions, Md. Code Ann., Com. Law sec. 12-1001, *et seq.*, require borrowers to have repaid more than the original principal amount of their loans before they are entitled to relief if a creditor violates the repossession notice requirements. In this class action suit, GMAC had repossessed cars when the owners became delinquent on payments, and then advertised the foreclosure sales as public. The Maryland Court of Appeals in *Gardner v. Ally Fin. Inc.*, 71 A.3d 817 (Md. 2013) held that the sales were actually private, and thus GMAC mischaracterized them. The district court, relying on the unpublished opinion of *Bediako v. American Honda Fin. Corp.*, 537 F. App'x 183 (4th Cir. 2013), held that Gardner had not sustained damages because there was still an unpaid principal balance on their loan. Judge Diaz, for a unanimous panel, affirmed, expressly following *Bediako*'s determination that the Provisions only permitted a debtor to recover "amounts paid in excess of the principal amount of the loan" as damages. The panel also rejected the debtors' claim of nominal damages pursuant to a breach of contract claim linked to violation of the Provisions. A link to the opinion, released on August 6, 2015, is here.

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TAGGED: maryland, credit, Gardner v. GMAC