

**FIRST NAT'L BANK V. CONTRENDS, INC., 1977-NMSC-003, 90 N.M. 33, 559 P.2d
410 (S. Ct. 1977)**

**FIRST NATIONAL BANK IN ALBUQUERQUE, Plaintiff-Appellee,
vs.
CONTRENDS, INC., Leo Padilla, dba Albuquerque Electrical
Company, et al., Defendants-Appellants.**

No. 11010

SUPREME COURT OF NEW MEXICO

1977-NMSC-003, 90 N.M. 33, 559 P.2d 410

January 24, 1977

Motion for Rehearing Denied February 4, 1977

COUNSEL

Stephen F. Lawless, Thomas L. Grisham, John Freeman, W. W. Atkinson, B. Thomas May, Turner W. Branch, William J. Sullivan, Michael M. Rueckhaus, Gary B. Ottinger, Martin B. Paskind, Richard E. Norton, William N. Henderson, Dickson & Dubois, Paul S. Wainwright, Albuquerque, for defendants-appellants.

Rodey, Dickason, Sloan, Akin & Robb, Rex Throckmorton, Albuquerque, for plaintiff-appellee.

JUDGES

McMANUS, J., wrote the opinion. EASLEY, J., and ROZIER E. SANCHEZ, District Judge, concur.

AUTHOR: MCMANUS

OPINION

{*34} McMANUS, Justice.

{1} On December 7, 1976 an opinion in the above cause was handed down by this Court. A motion for rehearing on behalf of the First National Bank in Albuquerque was filed on December 15, 1976. Said motion was granted by this Court. As a result, the opinion of December 7, 1976 is hereby withdrawn and held for naught.

{2} This Court's former opinion, now withdrawn, was based generally upon the fact that the redemption period after foreclosure of the mortgage involved was nine months and that it had not been reduced to one month as authorized by statute. Copies of the bank's mortgage appear in two different places in the transcript. Whether by design or inadvertence, the top two lines, appearing on page three of the mortgage copies included in the transcript, had been cut off prior to the delivery of the transcript to the Clerk of the Supreme Court. A correct copy of the mortgage appears in the file of the Office of the District Court Clerk and in the mortgage records of Bernalillo County. These lines read as follows:

If this mortgage is foreclosed, the redemption period after judicial sale shall be one month in lieu of nine.

{3} Section 24-2-19.1, N.M.S.A. 1953 (Supp. 1975) reads as follows:

The parties to any such instrument may, by its terms, shorten the redemption period to not less than one [1] month, but the district court may in such cases, upon a sufficient showing before judgment that redemption will be effected, increase the period of redemption to not to exceed nine [9] months notwithstanding the terms of such instrument.

{4} Therefore, since the redemption period under the mortgage was only one month and such period having expired, the judgment of the trial court in favor of the plaintiff-appellee, First National Bank in Albuquerque, will be affirmed.

{5} Appellate review, with all of the documents before the Court, is difficult in itself. Attempting appellate review when documents are incomplete or missing is impossible. As a consequence of the problems that arose in this appeal, costs in the amount of Five Hundred (\$500.00) Dollars will be assessed against defendants-appellants.

{6} IT IS SO ORDERED.

EASLEY, J., and ROZIER E. SANCHEZ, District Judge, concur.