

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS, EASTERN DISTRICT

ATC COMPANY, INC., Plaintiff,	)	No. ED100501
	)	
vs.	)	
	)	Appeal from the Circuit Court of
STEVEN M. MYATT and JEANNE MYATT,	)	St. Charles County
Respondents,	)	
	)	Honorable Nancy L. Schneider
and	)	
	)	
PINEWOODS INVESTMENTS, LLC,	)	
Appellant.	)	Filed: June 30, 2014

Pinewoods Investments, LLC (“Purchaser”) appeals, for the second time, a judgment of the Circuit Court of St. Charles County in favor of Steven and Jeanne Myatt (collectively, “Seller”) on Purchaser’s claims for declaratory relief and breach of contract and Seller’s claim for breach of contract. In their claims, both Purchaser and Seller asserted a right to earnest money under a real estate sale contract. Purchaser argues the trial court erred on remand in entering its judgment ordering payment of the earnest money to Seller because the judgment misapplies the law and is against the weight of the evidence.

REVERSED AND REMANDED.

Division Three Holds: The trial court misapplied the law in addressing this court’s mandate in the first appeal, *ATC Company, Inc. v. Myatt*, 389 S.W.3d 732 (Mo. App. E.D. 2013). The trial court’s judgment for Seller on the parties’ claims against each other for the earnest money is against the weight of the evidence. We reverse the judgment and remand the case to the trial court for entry of judgment in accordance with this opinion.

Opinion by: Angela T. Quigless, J.

Mary K. Hoff, P.J., Kurt S. Odenwald, J., Concur.

Attorney for Appellant: Paul J. Puricelli  
Sam Alton, Co-Counsel

Attorney for Respondent: William J. Zollmann  
John C. Maxwell, Co-Counsel

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