

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

TITLE PARTNERS AGENCY, LLC,)	No. ED94942
Plaintiff/Respondent,)	Appeal from the Circuit Court
v.)	of St. Louis County
DEVISEES OF THE LAST WILL AND)	Honorable Patrick Clifford
TESTAMENT OF M. SHARON DORSEY, and)	Date: January 25, 2011
PATRICK DORSEY, Personal Representative,)	
Defendants, and)	
PATRICK T. DORSEY, Defendant/Appellant.)	

Plaintiff title insurance company filed a lawsuit to recover the sum of \$6,688.77, representing the amount owed by the seller on a second deed of trust on real estate sold to plaintiff's insured, which amount plaintiff then paid to the mortgagor because it had not discovered, and defendant had not disclosed, the existence of the second deed of trust at the time the real estate was sold. Defendant appeals from the judgment in plaintiff's favor.

AFFIRMED.

Division One Holds:

1. When multiple theories are available upon which the trial court could have based its judgment, we will affirm the judgment if we can do so on any reasonable theory pleaded and supported by the evidence.
2. The right to restitution for unjust enrichment presupposes: (1) that the defendant was enriched by the receipt of a benefit; (2) that the enrichment was at the expense of the plaintiff; (3) that it would be unjust to allow the defendant to retain the benefit.
3. A person who has received money from another by mistake, money that in equity and good conscience the person ought not to keep, may be compelled to make restitution even if the mistake was an honest one.
4. The second deed of trust was a debt belonging to the Estate that would have been satisfied by a deduction from the sale proceeds paid to the Estate had the second deed of trust been discovered or disclosed at or before closing. It would be unjust to allow defendant to retain the portion of sale proceeds that should have been withheld to pay the second deed of trust, which amount the plaintiff then had to pay with its own funds to satisfy that obligation.

Opinion by: Kathianne Knaup Crane, J.
Roy L. Richter, C.J. and Kenneth M. Romines, J., concur.

Attorney for Respondent: Robert J. Selsor

Attorney for Appellant: Robert J. Maurer

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.