MISSOURI COURT OF APPEALS EASTERN DISTRICT
OPINION SUMMARY

SHIRLEY R. EBERT, ET AL.,	)	No. ED108195
	)	
Respondents/Cross-Appellants,	)	Appeal from the Circuit Court
	)	of Jefferson County
vs.	)	
	)	
MARK R. EBERT AND CINDY K. EBERT,	)	Honorable Troy A. Cardona
	)	
Appellants/Cross-Respondents.	)	FILED: June 8, 2021

Mark R. ("Mark") and Cindy K. Ebert ("Cindy") appeal from the trial court's judgment following a bench trial arising out of an action by Shirley R. Ebert, individually and as Trustee of the Shirley R. Ebert Revocable Living Trust dated November 20, 2017 (collectively, "Shirley"), to resolve claims surrounding a real estate contract for the purchase of family property and repayment of personal loans. Mark and Cindy raise three points on appeal. Point One alleges the trial court erred in failing to apply a five-year statute of limitations to bar Shirley's breach of contract claims to recover on two loans (the "Flight School Loan" and the "American Heritage Loan," respectively). Point Two claims the trial court erred in holding Cindy liable on any loan-related claims because she was not a party to any loan agreement. Point Three contends the trial court erred in finding the 2002 real estate contract (the "2002 Contract") unenforceable on the grounds that its terms were neither certain nor capable of being made certain. In her sole point on cross-appeal, Shirley argues the trial court erred in not granting an easement by implication because the easement was pleaded and judicially admitted at trial.

AFFIRMED IN PART, REVERSED IN PART AND REMANDED.

DIVISION THREE HOLDS: Because the Flight School Loan reflects a written promise of indebtedness, bringing it within the ten-year statute of limitations in Section 516.110(1), the trial court did not err in finding Count VI was timely filed, and we deny Point One as to Count VI. However, because the American Heritage Loan does not reflect a written promise of indebtedness, the trial court erred in finding Count V was not barred by Section 516.120(1)'s five-year statute of limitations, and we grant Point One as the Count V. Because the facts and pleadings show Mark solely liable on the Flight School Loan, no legal reason justified holding Cindy liable on the judgment as to Count VI, and we grant Point Two. Because the 2002 Contract for real property did not set forth a certain price or a sufficiently certain method of determining the price, the trial court did not err in holding the 2002 Contract unenforceable, and we deny Point Three. Because the record demonstrates the trial court's denial of Count I was against the weight of the evidence in that Shirley established the elements for an easement by implication, we grant the sole point on cross-appeal. Accordingly, we reverse the judgment in part and remand for the trial court to enter judgment consistent with this opinion.

Opinion by: Kurt S. Odenwald, J.
Angela T. Quigless, P.J., and James M. Dowd, J., concur.

Attorney for Appellants: Lawrence Wittels

Attorneys for Respondents: Mark D. Pasewark and Douglas O. McCloskey

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.