

OPINION SUMMARY
MISSOURI COURT OF APPEALS – EASTERN DISTRICT
DIVISION THREE

CORNERSTONE MORTGAGE, INC.,)	No. ED93337
Plaintiff/Respondent/Cross-Appellant,)	
)	Appeal from the Circuit Court
vs.)	of St. Charles County
)	0611-CV04932
)	
KURT W. PONZAR,)	Honorable Ted C. House
Defendant/Appellant,)	
)	
and)	
)	
SANDRA L. PONZAR,)	
Defendant/Appellant/Cross-Respondent.)	FILED: June 22, 2010

Kurt W. Ponzar (Mr. Ponzar) and Sandra L. Ponzar (Mrs. Ponzar) (collectively the Ponzars) appeal from the judgment entered in favor of Cornerstone Mortgage, Inc. (Cornerstone). On appeal, the Ponzars raise questions regarding whether Cornerstone failed to state a claim for relief in Counts II, III, and IV of its petition; whether the judgment goes beyond the remand ordered in Cornerstone Mortg., Inc. v. Ponzar, 254 S.W.3d 221 (Mo. App. E.D. 2008); whether the debt referenced in the Ponzars’ Deed of Trust was discharged pursuant to Section 400.3-407, RSMo 2000¹; whether Cornerstone had a legally protectable interest at stake; whether Cornerstone quit its claim for return of the funds; whether there was substantial evidence presented establishing Mr. Ponzar as an “obligor” pursuant to the Truth In Lending Act, 15 U.S.C. Section 1635(b); whether the grant of equitable relief in the judgment was erroneous; whether Mr. Ponzar should have been allowed to file a counterclaim; and, whether the trial court should have allowed the Ponzars to amend their pleadings. On cross-appeal, Cornerstone argues the trial court erred in failing to enter judgment against Mrs. Ponzar based on the verdict against her on unjust enrichment.

AFFIRMED AS MODIFIED.

Division III holds: (1) The trial court’s judgment regarding the Ponzars’ nine points on appeal is affirmed under Rule 84.16(b) and the parties have been furnished with a memorandum in that regard. Since no issues on appeal were raised regarding the consolidated writ of prohibition, the preliminary order of prohibition is hereby quashed; (2) The trial court erred in failing to enter judgment on the verdict against Mrs. Ponzar on Count II of Cornerstone’s petition for unjust enrichment. Pursuant to Rule 84.14, we enter a judgment of \$491,894.96 against Mr. and Mrs. Ponzar jointly and severally. The trial court’s judgment is affirmed in all other respects.

Opinion by: Mary K. Hoff, Judge Glenn A. Norton, Presiding Judge and Lawrence E. Mooney, Judge, concur.

Attorney for Appellants/Cross-Respondent: Kurt W. Ponzar and Sandra L. Ponzar, *pro se*

Attorney for Respondent/Cross-Appellant: Michael A. Campbell

Ryan J. Mason, Co-Counsel

**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.**

¹ Unless otherwise indicated, all further statutory references are to RSMo 2000.

