

ORIGINAL

Supreme Court, U.S.
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20-5282

IN THE SUPREME COURT OF THE UNITED STATES

ALLA ZORIKOVA,

Petitioner,

v. REALVEST INC,

Respondent.

On Petition for Writ of Certiorari to

the Southern District Court of Appeal, Missouri

PETITION FOR A WRIT OF CERTIORARI

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SUPREME COURT, U.S.

I. QUESTIONS PRESENTED

1. Did Circuit Court denied Petitioner's Constitutional right for fair Trial by entering judgment against the law, weight of evidences and facts?
2. Did Southern District Court of Appeal falsified facts in its Statement/opinion?
3. Did the circuit court erred in allowing to Respondent (who is foreign Nevada's Corporation) to proceed with his action against Petitioner in the Court of Missouri while being a foreign Corporation and therefore barred by law from accessing Courts of Missouri. Circuit Court failed to apply RSMo Section 351.574 states "*no foreign corporation, failing to comply with this chapter, can maintain any suit or action, either legal or equitable, in any of the courts of this state, upon any demand, whether arising out of the contract or tort*" RSMO §351.574.
4. Did The circuit court erred in denying Petitioner's request to recognize that Respondent charged usurious interest to Petitioner and that Petitioner had paid usurious interest to Respondent, that Pursuant RSMo 408.030 (2) "*If a rate of interest greater than permitted by law is paid, the person paying the same or his legal representative may recover twice the amount of the interest thus paid, The person so adjudged to have received a greater rate of interest shall also be liable for the costs of the suit, including a reasonable*

attorney's fee to be determined by the court. " RSMo 408.030 (2) RSMo 408.015 RSMo 408.050 Sec. 408.035 RSMo 408.030 (1) RSMo 408.030 Sec. 408.020 to 408.562

5. Did the Trial Court erred in failing to provide relief to the Petitioner under TILA (Truth In Lending Act)?
6. Did the Circuit Court erred by failing to act in accordance with its duty because Court failed to submit fact of perjury committed by Respondent to Prosecuting Attorney and failed to recognize Respondent based on the fact of his evasive statements that are false and material to the proceedings in which the statement is made under oath, statement was untrue, now it was untrue with intent to defraud, which is criminal offense?
7. Did the Circuit Court abused its discretion and erred in granting to Respondent monetary judgment in the amount of \$53,000 even Respondent had withdrew his monetary demand in Count I of his Amended Petition and Count II of his Amended Petition was dismissed, and the only the request for foreclosure of Petitioner's Land has been filed by Respondent and all money from the sale of the land be paid to Respondent and to cover attorney fees, and remainder of money from sale will go to Petitioner?
8. Did the circuit court erred in denying Petitioner's request for punitive damages be awarded to because Respondent defrauded Petitioner by selling the land with fraudulent APR and with excessive amount of fees applied that are not permitted by law? RSMo 407.025 RSMo 407.020 Sec. 408.100 to 408.561 RSMo 408.554 RSMo 407.453 RSMo 408.555 RSMo 408.562 RSMo 408.052

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IV. PETITION FOR WRIT OF CERTIORARI

Alla Zorikova, the Petitioner, petitions this Court for a writ of certiorari to review the Statement issued by SDCOA case #SD36049, which failed to issue its opinion on Appeal

from 26 Circuit Court Camden County of Missouri case 16CM-CC00086.

V. OPINIONS and JUDGMENT BELOW

The 26th Circuit's Court of Camden County of Missouri judgment

attached as Appendix 1. The Southern District Court of Appeal court's opinion attached as Appendix 2.

Supreme Court's of Missouri order denying Application to Transfer attached as Appendix 3.

VI. JURISDICTION

Petitioner invokes this Court's jurisdiction under 28 U.S.C. §

1257, having timely filed this petition for a writ of certiorari within ninety days of the

Petitioner's Motion for Rehearing (^{AZ}~~Appendix 1~~) has been denied by SDCOA plus 60 days extension time added and allowed because of COVID19.

Judgment has been entered by 26th Circuit Court of Camden County of Missouri on Dec 07 of 2018 on case #16CM-CC00086. (*Appendix 2*)

Notice of Appeal, Motion to proceed as Poor Person, Motion to Set Aside filed by Petitioner on Dec 12 of 2018.

The date the Court of Appeals Statement (substitute for Opinion) was issued ____
02/24/2020_ (*Appendix 3*)

The date the motion for rehearing was filed ____03/02/2020__

and denied on

____03/09/2020__

~~(Appendix 4)~~

The date the application for transfer was filed in the Court of Appeals ____03/23/2020__

and ruled on

____04/28/2020__

(Appendix 84)

Appellant had filed Motion for Release from Judgment as well, the Motion has been denied. *on March 20, 2020 (Appendix 5)*

VII. Constitutional Provisions Involved

United States Constitution, Amendment V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be put twice in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

United States Constitution, Amendment XIV:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State

shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

VIII. STATEMENT OF THE CASE

The judgment entered by 26th Circuit Court had egregious errors. It appears that quite frankly the State Law and Constitution of USA just totally disregarded and abolished by judges for this case in the State of Missouri. I have law degree from Europe and practiced law in Europe as well. People of Missouri are treated by authorities as people of a third world country, what I had come through is just unbelievable lawless, disregard of human rights and blooming of corruption, which stays unpunished. Attorneys advising to clients to lie as was in my case. SDCOA shamelessly, in the face falsified facts in its statement (I observed just the same in Court of Appeal in Kansas City). It appears very common and punished practice in Missouri.

This case presents a questions of exceptional interest and importance to the citizens of USA based on the fact of entering judgment by Camden County Circuit Court against the law, facts and evidences and therefore denying Appellant's rights for fair trial. This case necessitates re-examination to ensure people of Missouri have constitutional rights for due process and private property, as well as their rights not be charged unlawful usurious interest and be protected from committing perjury in court offenders.

Respondent had filed this lawsuit for foreclosure against Petitioner in May of 2016.

Plaintiff-Respondent is a foreign Nevada's Corporation. Petitioner Alla Zorikova brought her action against Plaintiff -Respondent for charging illegal usurious interest rate for charging usurious interest under §§ 408.030.2 as an affirmative defense and as a counterclaim, for abuse of process and bad faith as Petitioner had filed her Counterclaim and Affirmative Defenses on 19 of May of 2016. Respondent files motion to Withdraw Plaintiff's request in Count I for Monetary Damages in First Amended Petition on February 23 of 2017, which was granted by Court Order on March 23 of 2017 . On May 23 of 2017 Plaintiff -Respondent dismissed his cause of action as for all monetary damages alledged. Oct 19 of 2018 Appellant filed statement about committed perjury by Matt Roming. Judgment entered by Circuit Court on Dec 07 of 2018 . Notice of Appeal, Motion to proceed as Poor Person, Motion to Set Aside filed by Petitioner on Dec 12 of 2018 .

Petitioner had purchased under terms of Purchase Contract from Plaintiff Realvest Inc the vacant land parcel located at 279 Quantrill Hollow, Montreal, MO 65591 with legal description attached to the Warranty Deed . The total purchase price for the land under the terms of the Purchase Contract is \$33,000.00 .Warranty Deed has been issued to Petitioner by Plaintiff-Respondent. Respondent offered 2 options for the Petitioner to choose from regarding the lentgh of repayment such as #1. 144 month and #2. 240 month both options had interest rate applied as 12 %. Petitioner agreed to option with terms for 144 month interest rate 12% for repayment of the loan. The fees assigned were \$249.00 + \$864.00. The APR listed by Respondent on purchase agreement was 12% while real and true APR if someone calculates it by using numbers in the purchase contract was 12.86%. Petitioner paid total of _\$27,175 ____ to the Plaintiff -Respondent. The total interest paid

by Petitioner to Plaintiff is \$16,572.48. Last payment made by Petitioner to Plaintiff - Respondent in the amount of \$1,736.68 was made on __15 March_2016__-. The legal rate of interest allowed by the Statutory law in Missouri cannot exceed 10%. RSMo 408.030. Loan has been given by Plaintiff -Respondent to Petitioner in August of 2010. The market rate in the State of Missouri in 2010 had not exceeded 8% annum. The rate of interest greater than permitted by law was paid by Petitioner to the Plaintiff -Respondent . RSMo 408.030. Petitioner may recover twice the amount of the interest thus paid. (RSMo 408.030.). Petitioner had testified that she had significant emotional distress. Respondent had charged Petitioner illegal fees in amount of \$864 +\$249 . Petitioner therefore may recover twice the amount paid together with costs of the suit and reasonable attorney's fees. RSMo 408.030. Petitioner had built cabin on the Land. The Land and the Cabin is a primary residence for the Petitioner. There is no Notice of Default has been provided by Respondent to Petitioner in January of 2016 or before that date. There is no Notice of Default has been provided by Respondent to Petitioner in February of 2016. Petitioner paid to Respondent \$ _1,736.68_ on March _15_ of 2016 . Petitioner paid to Respondent \$ _868_ on March _21_ of 2016 . Z. Oct 19 of 2018 . Petitioner filed statement with the Trial Court about committed perjury by Respondent supported with evidences.

Rule 84.04(a)(3) requires an appellant's brief to contain "[a] statement of facts[.]"

Id. Petitioner's statement of facts have had specific page references to the relevant portion of the record on appeal, i.e., legal file, transcript, or exhibits. Rule 84.04(c).

Petitioner's brief and points were in compliance with Rule 84.04.

Judgment entered by Circuit Court in each and every issue and point is against weight of evidences, against the law.

The decisions of the Supreme Court of Missouri are controlling upon this court. Mo. Const. art. V, § 2. Since *Murphy v. Carron* in 1976, our supreme court has required that in a court-tried civil case, the judgment of the trial court will be sustained by the appellate court unless there is no substantial evidence to support it, unless it is against the weight of the evidence, unless it erroneously declares the law, or unless it erroneously applies the law. 536 S.W.2d 30, 32 (Mo. banc 1976).

Its Statement Court of Appeal starts from evasive at least and fraudulent at most wrongfull statement: " *Most of Appellant's statement of facts recites procedural events in the case, supported only by references to the legal file or trial exhibits. A number of statements have no references to the record at all. 2 Only five pages from the transcript are cited*". However, the truth is that only about 30 of Petitioner's statements of facts are procedural while about 70 are totally not relevant to procedural issues. 30 is obviously falsly called "the most" from 100. Court of Appeal evasively once again stating "*Only five pages from the transcript are cited*" While it was twice more pages cited and other statements have reference to pages in legal file or exhibits. How these both courts (Court of Appeal and Circuit Court) lie in a face? That's why Respondent shamelessly cheats the judge on hearings and committing perjury without hesitation, he knows that Judge and court above provide evasive statements and falsifying facts as well.

"In a bench-tried case, the judgement of the trial court will be sustained UNLESS there

is no substantial evidence to support it, unless it is against the weight of the evidence, or unless it erroneously DECLARES OR APPLIES THE LAW." *Kirkpatrick v. Webb* 58 S.W. 3d 903, 905 (Mo App S D 2001). This standard of review generally requires permissible inferences to be viewed favorably to the judgment and the trial court must be given deference to determine the credibility of witnesses. *Id.* At 905 But in private road cases, appellate courts will reverse a judgment rejecting the need for a road if the judgement is against the weight of the evidence. See, e.g. *id.* At 907-08; *Spier v Brewer*, 958 S. W. 2d 83, 87 (Mo App E.D. 1997) ; *Moss Sprongs Cemetery Association v. Johannes*, 970 S. W. 2d 372 376-77 (Mo App. S. D. 1998)

However, in this case, the merits, facts and law is so enormously in favor of the Petitioner that SDCOA has nothing to do but attempted to decide the outcome of Appeal on procedural "errors" instead of merits, which is completely against common law and practice in Missouri as well as in other states of USA. Wherefore, the Statement that has been issued by Appellate Court is against the Opinions favoring decide cases on merits and therefore must be reversed. Appellate Court denied my fundamental constitutional rights provided to USA citizens by USA Bill of Rights of USA Constitution as well as by Constitution of the State of Missouri, such as right for fair trial and the right to have private property that no one can take without due process.

During all 3 years of this litigation, Petitioner had numerous occasions of constant oppression by the Circuit Court and obstruction of her pleadings , trial, post trial motions and this Appeal.

Court's finding of Facts and Conclusion of Law are so obviously erroneous if one looks

on admitted evidences, transcripts and law pointed above, especially regarding paragraphs 1, 6, 16, 17, 23,25, 26, 27, 29, 32, 36, 37, 40, 48, 49, 51, 54, 57,60, 65, 71. Court elected just to sign unmodified facts and conclusion of law proposed to Court by Respondent. Conclusions of law in the Judgment are also inverted and do not reflect the true law, which had to be applied if it would be fair hearing by fair competent judge. Petitioner has basic constitutional right for FAIR hearing that circuit court viciously denied to Petitioner.

For example the Trial has been set as 3 days trial, and only on the hour #11 while on the first day of trial Petitioner learned that she will have only one day for Trial. As result, her day in Trial was over 12 hours non stop, she beraly could speak at the end because was speaking almost all 12 hours, there were not enough time neither for closing arguments nor for other matters. Next Circuit Court obstructed Notice of Appeal, which was filed timelly on January 04 pof 2018 but reached the Court of Appeal only in April of 2019 or about that time. Now Appellant has couple days to prepare all this brief because Circuit Court just released transcripts and stiil failed to deliver to Petitioner Legal File as on August 18 of 2019. Even after receiving mailed 1335 pages of the legal file, Court again made error by stating on its certification page that 18 pages have been ceritifed instead of 1335 pages. Petitioner had to call Circuit Court and literally DEMAND to provide general certification for the legal file because circuit court has bee refusing doing so.

Herrin v Straus, 810 s.w. 2d at 594-95 supreme court Sprung "law favors a trial on the merits "**sprung v negwer materials supreme court of missouri A case must be**

decided on the merits. *Sprung*, 727 S.W.2d at 887. The *Sprung* Court stated well that:

A primary goal of the judicial system is to seek the truth and to do justice between the parties. To promote this goal a case must be decided on the MERITS; procedural 'niceties' should NOT pose insurmountable barriers. These competing goals of efficiency, finality, and justice must be carefully balanced to ensure the public's confidence in the court system.

This case must be decided on MERITS and make fair precedent that NO lawfirm can win the case based on fact of "knowing" judges and on desire to falsify facts.

Allowing the judgment to stand prejudices Petitioner by cutting off her day in court.

Petitioner has suffered damages resulted in vicious, malicious and willfull actions by Realvest Inc, based on wich Petitioner's homestead has been unlawfully foreclosed,

In the interest of justice, the Court should pronounce that the circuit Court's grant of the December 07 of 2016 judgment in Respondent's favor should be reversed and the case remanded to Trial Court for a decision on the merits.

the trial court will be sustained unless there is no substantial evidence to support it, unless it is against the weight of the evidence, or unless it erroneously DECLARES OR APPLIES THE LAW.

The judgment entered by Circuit Court of Camden County of M issouri is outrageously and clearly against the law, facvts and weight of evidences and therefore needs to be reviewed in the interest of the people of united states and justice. Petitioner's

Constitutional rights such as right for fair trial has been brutally denied.

This case has been filed in 2016 under Obama and now we have our hero and true changer of history of USA President Trump, who changed many federal judges. I hope that Supreme Court of United States acting on the side of the People will take this case in order that truth and justice will prevail.

Following cases support Petitioner's side and presented in Petitioner's pleadings:

Affiliated Acceptance Corp. v. Boggs, (Mo.917 S.W.2d 652) (1996), *Addison*, 758 S.W.2d at 458. , *Auto Salvage Co.*, 134 S.W.3d 633, 635 (Mo. banc 2004)). ,*Bahl v. Miles*, 222 (Mo. App. 984, 987, 6 S.W.2d 661, 663 (K.C. Ct. App. 1928)), *Bank v. Donnell*, (172 Mo. 384, 72 S.W. 925 (1903)), *Bass v. Nooney Co.*, (646 S.W.2d 765, 722-733 (Mo banc 1983)), *Brown*, 655 S.W.2d at 760, *Gehlert v. Smiley*, 114 S.W.2d 1029 (Mo. 1937).

Cuendet v. Love, Bryan & Co., *Fischman v. Schultz*, 55 S.W.2d 313 (St. L. Ct. App. 1932).

Flinn v. Mechanics' Bldg. Ass'n, 93 (Mo. App. 444, 67 S.W. 729 (St. L. Ct. App. 1902, *Hecker v. Putney*, 196 S.W.2d 442 (St. L. Ct. App. 1946), *Holmes v. Royal Loan Ass'n*, 166 Mo. App. 719, 150 S.W. 1111 (K.C. Ct. App. 1912, *Kirkpatrick v. Webb* 58 S.W. 3d 903, 905 (Mo App. SD 2001) , *J. I. Case Threshing Mach. Co. v. Tomlin*, 174 Mo. App. 512, 161 S.W. 286 (K.C. Ct. App. 1913) , *Kreibohm v. Yancey*, 154 Mo. 67, 85, 55 S.W. 260, 266 (1900),

Osborn v. Payne, 111 Mo. App. 29, 85 S.W. 667 (K.C. Ct. App. 1905), *Securities Inv. Co. v. Rottweiler*, 7 S.W.2d 484, 486 (St. L. Ct. App. 1928), *Webster v. Sterling Fin. Co.*, 355 Mo. 193, 203, 195 S.W.2d 509, 514 (1946), *Willard, Finance Charges or Time Price Differential in Installment Sales Usury*, 24 Mo. L. REv. 225 (1959). *v. Neuman*, 271 S.W. 842 (St. L. Ct. App. 1925), *Cavally v. Crutcher*, 9 S.W.2d 848 (Spr. Ct. App. 1928). *Flowers*, 384 S.W.3d at 314.

Holmes v Wells Fargo WD78666 (Mo.App. W.D. 2012), *Laughrey, Default Judgments in Missouri*, 50 Mo.L.Rev. 841, 843-44 (1985). *Spier v. Brewer*. 958 S.W. 2d 83, 87 (Mo App. E.D. 1997), *Moss Springs Cemetery Association v. Johannes* 970 S.W. 2d 372 376-377 (Mo App. S.D. 1998), *Lake Shore & M.S. Ry. Co. v. Prentice*, 147 US 101, 13 S Ct. 261, 37 L Ed (1893),

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Medlock v. Farmers State Bank of Texas County, 696 S.W.2d 873, 879 (Mo. App. S.D. 1985) (citing Bass, 646 S.W.2d at 772-73). *Perfect 10, inc v Cybernet Ventures Inc.* 213 F. Supp.2d 1146, 1155 (C.C.Cal.2002) *Johnson-Wooldridge v Wooldridge* 2001 Ohio App LEXIS 3319 at 12-13 (Ohio App July 26, 2001).. *Chapman v SF Newspaper Agency* 2002 U.S.District LEXIS 180....LEXOLOGY.COM information on a governmental website will be admissible under public records, trying to establish info posted on website is not hearsay

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State ex rel. Nixon v. Telco Directory Publ'g., 863 S.W.2d 596 601 (Mo. banc 1993).

State Farm Mut. Ins. v. Campbell, 538 U.S. 408, 418, 123 S. Ct. 1513, 155 L. Ed. 2d 595 (2003).

The Supreme Court's opinion in State Farm Mut. Ins. v. Campbell,

Truck Ins. Exch. v. Prairie Framing, LLC, 162 S.W.3d 64, 94-95 (Mo.App.2005).

Allen v. Newton, 219 Mo App. 74, 79, 266 S.W. 327, 329 (K.C. Ct. App. 1924)

Citizens' National Bank v. Donnell 172 Mo 384, 72 S.W. 925 C 1903)

Robin v. Newman 271 S. W. 842 (St. L. Ct. App. 1925)

"Downey v. McKee, 218 S.W.3d 492, 497 (Mo.App.2007)(quoting *Werremeyer v. K.C. Truth In Lending Act (TILA)*)

IX. REASONS FOR GRANTING THE WRIT

This case presents this Court with an opportunity to set the standards in Missouri that Courts decide cases based on merits, law, facts, evidences and true justice instead of corruption and "knowing right people" who can make decision by being blackmailed or bribed or both. All evidences are clearly presented in this case, law specified. Please review this case in order to set good and only appropriate precedent for Missouri.

X. CONCLUSION AND PRAYER FOR RELIEF

The judgment of the trial court shall be reversed because there is no substantial evidence

to support it, it is against the weight of the evidence, and it erroneously DECLARES OR APPLIES THE LAW. Wherefore, Petitioner respectfully asks this Court to grant certiorari to review the 26th Circuit's judgment, summarily reverse the decision below, or grant such other relief as justice requires.

DATED this 12nd day of July, 2020.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Alla Zorikova', with a stylized, cursive script.

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