

**IN THE COURT OF APPEALS OF IOWA**

No. 7-462 / 96-1555

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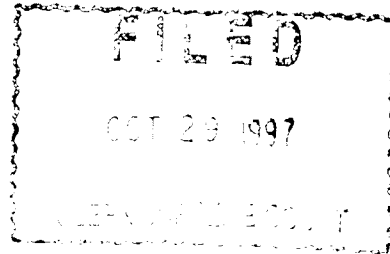
**SALLY FITZ,**

Plaintiff-Appellee,

vs.

**MARCIA F. RODGERS f/k/a MARCIA F.  
DORENKAMP and DIANE WESTENDORF,**

Defendants-Appellants.



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Appeal from the Iowa District Court for Hardin County, William J. Pattinson  
and Timothy Finn, Judges.

Defendant Rodgers appeals from the district court's judgment against her on  
plaintiff's unjust enrichment claim for recovery of money loaned to defendant  
Westendorf for the purchase of a home with Rodgers as the sole owner.

**AFFIRMED.**

Lynn J. Wiese of Barker, McNeal, Wiese & Holt, Iowa Falls, for appellants.

Larry W. Johnson of Walters & Johnson, Iowa Falls, for appellee.

Considered by Sackett, P.J., and Vogel and Mahan, JJ.

**PER CURIAM.**

Defendant-appellant Marcia F. Rodgers appeals following the entry of a judgment against her on a claim she was unjustly enriched by receiving money plaintiff-appellee had loaned to Diane Westendorf. Westendorf, an original defendant, has discharged any obligation she may have in bankruptcy. We affirm.

The facts as the trial court found them are that in 1993 Rodgers made an offer to purchase a house in Iowa Falls and asked Westendorf to help her finance it. Westendorf was a friend of plaintiff-appellee Sally Fitz. Westendorf requested a loan from Fitz for \$12,500 to be used to purchase the house. Fitz believed Rodgers and Westendorf were to be joint owners. Fitz testified had she known Westendorf would not have any ownership interest in the house, she would not have made the loan. Fitz made a check payable to the agent closing the house sale. Fitz did not go to the closing. The deed went only to Rodgers.

Rodgers claims the district court incorrectly determined plaintiff was entitled to recovery on the basis that Westendorf fraudulently or mistakenly represented she would own the home with Rodgers and Rodgers was unjustly enriched by Westendorf's failure to repay plaintiff. We disagree and affirm.

We review de novo. Iowa R. App. P. 4.

The trial court found Fitz was induced to extend the loan on the belief her friend Westendorf and Rodgers were buying a home together. The court further

found Fitz would not have extended the money had she known Westendorf would not have an ownership interest in the home. The court also found Rodgers knew the money came from Fitz. On our de novo review, we agree with these findings.

Unjust enrichment is a doctrine of restitution. *Smith v. Harrison*, 325 N.W.2d 92, 94 (Iowa 1982); *Larsen v. Warrington*, 348 N.W.2d 637, 642-43 (Iowa App. 1984). "The doctrine rests upon the equitable principle that one shall not be permitted to unjustly enrich." *Glass v. Minnesota Protective Life Ins. Co.*, 314 N.W.2d 393, 397 (Iowa 1982) (quoting *Smith v. Stowell*, 256 Iowa 165, 173, 125 N.W.2d 795, 799-80 (1964)). In order to recover under a theory of unjust enrichment, a plaintiff must prove that a defendant has received money which in equity and good conscience belongs to plaintiff. *Warrington*, 348 N.W.2d at 642-43.

Fitz has shown Rodgers knowingly received money from Fitz. We have considered the arguments advanced and find no reason to disagree with the result reached by the trial court.

**AFFIRMED.**