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This opinion shall not "constitute precedent or be binding upon any court."  
Although it is posted on the internet, this opinion is binding only on the  
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-0794-16T1

MARY J. KNAPP,

Plaintiff-Appellant,

v.

JEFFREY KNAPP and JENNIFER  
A. KNAPP a/k/a JENNIFER  
GINSBURG,

Defendants,

and

ORIGINAL CRAFTSMAN DESIGNS, LLC,  
JAYSE KNAPP a/k/a JAY'SE KNAPP,  
LORD AND KNAPP HOMES, LLC and OPEN  
CONCEPT DESIGNS, LLC,

Defendants-Respondents.

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Argued November 14, 2017 – Decided January 25, 2018

Before Judges Fisher and Sumners.

On appeal from Superior Court of New Jersey,  
Chancery Division, Ocean County, Docket No.  
C-000160-15.

Michael Confusione argued the cause for  
appellant (Hegge & Confusione, LLC, attorneys;  
Michael Confusione, of counsel and on the  
brief).

Joseph A. Lombardo argued the cause for respondent Original Craftsman Designs, LLC (Lombardo Law Offices, attorneys; Joseph A. Lombardo, on the brief).

PER CURIAM

Plaintiff Mary J. Knapp filed suit in the Chancery Division to obtain an equitable interest in properties she contended were acquired with money she gave to her former fiancée defendant Jeffery Knapp for her investment share. Those funds were later transferred to defendants Jayse Knapp, Lord and Knapp Homes, LLC, Open Concept Designs, LLC, Original Craftsman Designs, LLC, and Jennifer A. Knapp, who was also pled as Jennifer Ginsburg. After Jeffrey and Jennifer<sup>1</sup> were dismissed from the action, the court granted summary judgment to the remaining defendants dismissing plaintiff's complaint, and denied plaintiff's cross-motion to file a second amended complaint to include a claim to an equitable interest in additional properties. Because the judge failed to consider plaintiff's equitable interest claim in the properties under the theory of unjust enrichment, we reverse and remand for trial.

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<sup>1</sup> Because three defendants share the same last name, we use their first names to avoid confusion. We intend no disrespect in doing so.

We review a motion for summary judgment de novo under the same Brill standard<sup>2</sup> applied by the trial judge. Townsend v. Pierre, 221 N.J. 36, 59 (2015); W.J.A. v. D.A., 210 N.J. 229, 237 (2012). Thus, we examine the record in the light most favorable to plaintiff, the opponent of the successful motion. Brill, 142 N.J. at 540.

The facts as viewed in the light most favorable to plaintiff follow. While plaintiff was engaged to be married with Jeffrey, she gave him money to purchase distressed properties to be repaired and sold for a profit. The plan was for her to be Jeffrey's partner in the business. Jeffrey formed Lord and Knapp Homes, LLC, as a shell company to purchase the properties. Plaintiff submitted five signed promissory notes evidencing that she borrowed a total of \$158,000 from three different lenders, stating she would give it to "Jeffrey Knapp aka Lord and Knapp Homes, LLC" for real estate investments. Three of the notes referred to Jeffrey as plaintiff's "fiancé/business partner."<sup>3</sup> Plaintiff also alleged she deposited cash in Jeffrey's bank account.

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<sup>2</sup> Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520 (1995).

<sup>3</sup> Jeffrey was mistakenly identified as the "fiancée/business partner to the lender," rather than the "borrower".

Properties purchased by Lord and Knapp were eventually transferred to Jeffrey's son, Jayse, for one dollar. Jayse<sup>4</sup> later transferred the property to his shell company, Open Concept Designs, for \$2500. Plaintiff also alleges Lord and Knapp purchased a property and then conveyed it to Open Concept Designs, for \$500. That same day, Open Concept Designs conveyed the property to Original Craftsman Designs, a shell company formed by Jeffrey's sister, Kristine McHugh, for \$500. Plaintiff further charges that Lord and Knapp purchased another property for \$35,000 and conveyed it to Jayse for one dollar. Jayse in turn conveyed the property to Original Craftsman for \$2500.

After plaintiff filed suit, Jeffrey filed for bankruptcy. The claims asserted against him here were discharged in bankruptcy and dismissed. Claims against Jennifer<sup>5</sup> were voluntarily dismissed. The remaining defendants filed summary judgment motions to dismiss the complaint. In her opposition, plaintiff certified that she was defrauded by Jeffrey, who breached their verbal agreement that they would be partners in the investment properties acquired with her funds. Plaintiff also cross-moved

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<sup>4</sup> According to the record, Jayse was in the military at the time but had given Power of Attorney to his father.

<sup>5</sup> She was Jeffery's divorced second wife; plaintiff expected to be his third wife.

to file a second amended complaint to include additional properties acquired by Jeffrey with her funds.

The court granted defendants' motions for summary judgment, finding there was no contractual relationship between the parties that made defendants liable to plaintiff for Jeffrey's alleged fraudulent acts towards plaintiff. It consequently denied plaintiff's cross-motion.

On appeal, plaintiff contends the court should have denied summary judgment by applying the equitable theories of unjust enrichment, quantum meruit and constructive trust. Since these theories were not specifically raised before the court, we must determine whether plaintiff demonstrates plain error by showing on appeal the error was "clearly capable of producing an unjust result." R. 2:10-2.

In its oral opinion, the court reasoned plaintiff had no viable claims against defendants because they did not have a contractual relationship with plaintiff, and there was no written contract concerning an interest in property as required by the Statute of Frauds, N.J.S.A. 25:1-11. The court acknowledged plaintiff's claim that "all the [defendant] companies involved in this litigation are owned by family members of Jeffrey Knapp, and that the properties were transferred between the companies in an attempt to prevent plaintiff from recovering from them," but found

defendants had no legal liability for the money plaintiff gave Jeffrey to acquire any real estate. Considering plaintiff clearly opposed defendants' summary judgment motion by arguing she had an equitable interest in the properties, reiterating the claims made in her complaint, we conclude that a proper application of the theory of unjust enrichment required the denial of summary judgment.

To prove a claim for unjust enrichment, a party must demonstrate that the opposing party "received a benefit and that retention of that benefit without payment would be unjust." Iliadis v. Wal-Mart Stores, Inc., 191 N.J. 88, 110 (2007) (quoting VRG Corp. v. GKN Realty Corp., 135 N.J. 539, 554 (1994)). Plaintiff did not have to establish she had a contractual relationship with defendants in order to secure an equitable interest in the properties. Accepting plaintiff's allegations in the light most favorable to her, she acquired an interest in the properties through the money she gave to Jeffrey. Hence, defendants' ownership rights in the properties may be subject to plaintiff's equitable interest therein through unjust enrichment. See Cox v. RKA Corp., 164 N.J. 487, 495 (2000) (the judicially created doctrine of equitable conversion rests on the concept of promoting equity between the contracting parties).

Neither of plaintiff's other theories warrant reversal of the summary judgment order. The equitable remedy of quantum meruit is a type of "quasi-contractual recovery for services rendered when a party confers a benefit with a reasonable expectation of payment." Weichert Co. Realtors v. Ryan, 128 N.J. 427, 437 (1992). To deny recovery would be unjust. N.Y.-Conn. Dev. Corp. v. Blinds-To-Go (U.S.) Inc., 449 N.J. Super. 542, 556 (App. Div. 2017) (citations omitted). Since plaintiff did not render any services to defendants, we see no reason to apply quantum meruit to protect any interest she claims in the properties.

A constructive trust on property is appropriate in order to "prevent unjust enrichment and force a restitution to the plaintiff of something that in equity and good conscience [does] not belong to the defendant." Flanigan v. Munson, 175 N.J. 597, 608 (2003) (alteration in original). A two-prong test, however, must be satisfied to impose a constructive trust. Ibid. A court must first find one of the parties has committed a "wrongful act."<sup>6</sup> Ibid. (citing D'Ippolito v. Castoro, 51 N.J. 584, 589 (1968)). Second, the "wrongful act must result in a transfer or diversion of property that unjustly enriches the recipient." Ibid. Here,

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<sup>6</sup> A "wrongful act" includes not just fraud but "mistake, undue influence, or breach of a confidential relationship which has resulted in a transfer of property." D'Ippolito, 51 N.J. at 589.


the alleged scammer, Jeffery, is no longer a party, and there is no allegation that any of the defendants did anything wrong. Therefore, a constructive trust should not be imposed on defendants' properties to defeat summary judgment.

Lastly, defendants argue that their lack of contractual relationship with plaintiff prevents her pursuit of claims against their properties because she did not seek relief in Jeffrey's bankruptcy proceedings. We disagree because those concluded proceedings do not bar plaintiff's request for equitable relief against defendants. Although plaintiff's claims against defendants are derivative of her allegations against Jeffrey, as noted above, she is able to pursue her equitable interest in defendants' properties under the theory of unjust enrichment.

In reversing the Chancery court's summary judgment order, we are not suggesting that plaintiff should prevail at trial; we merely conclude plaintiff should be permitted to pursue her claims of equitable interest in defendants' properties by proving unjust enrichment. Accordingly, plaintiff's cross-motion to file a second amended complaint should have been granted.

Reversed and remanded.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.

  
CLERK OF THE APPELLATE DIVISION