

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2003-011852

08/17/2005

HONORABLE PETER C. REINSTEIN

CLERK OF THE COURT  
M. Sahli  
Deputy

FILED: 08/19/2005

DIANA GRAVALESE

ERIC C ANDERSON

v.

THOMAS J ZENNER

KENNETH S COUNTRYMAN

JON D EHLINGER

MINUTE ENTRY

The Court has heard testimony of witnesses at trial, reviewed the exhibits received in evidence and reviewed the proposed Findings of Fact and Conclusions of Law. Based upon the above, the Court makes the following findings.

**FINDINGS OF FACT**

1. Sometime during 2001, Defendant Thomas Zenner and Plaintiff Diana Gravalesse resided together while living in the Boston, Massachusetts area.
2. In September, 2001, Mr. Zenner's contract with a local television station in Boston was not renewed. In November, 2001, Mr. Zenner left for California to stay with a friend and Ms. Gravalesse traveled to the Dominican Republic to be with her mother who was ill.
3. In or about January, 2002, Mr. Zenner was offered employment with a television station in Phoenix and decided to relocate. Mr. Zenner then flew to the Dominican Republic, met with Ms. Gravalesse and asked Ms. Gravalesse to move to Phoenix with him.

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4. Ms. Gravalese then agreed and relocated to Phoenix.
5. Ms. Gravalese then returned to Boston and made arrangements for her property to be moved to Phoenix.
6. When Mr. Zenner arrived in Phoenix, he stayed briefly at a local hotel which was offered by his employer. Ms. Gravalese arrived in Phoenix while he was there.
7. Mr. Zenner then entered a lease on a home in Phoenix and both he and Ms. Gravalese moved into that residence in February, 2002.
8. Mr. Zenner and Ms. Gravalese never married.
9. While living in Phoenix, Ms. Gravalese was unemployed and receiving disability payments.
10. When he first moved to Phoenix, Mr. Zenner was having financial difficulties.
11. As a result of these financial difficulties, the parties agreed to pawn jewelry belonging to Ms. Gravalese in order to obtain funds for living expenses for the parties.
12. The jewelry was pawned for approximately \$2,600. The items pawned included a Rolex watch, diamond pendant, diamond necklace, Rolex ring, and two gold bracelets.
13. The jewelry was never retrieved from the pawnshop. Ms. Gravalese claims that Mr. Zenner promised to reimburse her. Mr. Zenner claims he never promised to pay Ms. Gravalese back for the jewelry.
14. The relationship between the parties began to deteriorate during 2002. In June 2002, Mr. Zenner requested that Ms. Gravalese move out of the house.
15. In October 2002, Mr. Zenner sought an Order of Protection against Ms. Gravalese.
16. On November 25, 2002, Mr. Zenner drafted a document (Exhibit 16) wherein he offered to pay Ms. Gravalese \$15,000 by December 31, 2002. The document also states that Mr. Zenner would also pay Ms. Gravalese for her moving expenses back to the Boston area.
17. The above document was signed only by Mr. Zenner on November 25, 2002. Further, the document was notarized the following day.

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18. Exhibit 31 is identical to Exhibit 16 except it contains a second page signed only by Mr. Zenner and has no notary seal.
19. On November 25, 2002, the parties obtained Orders of Protection against each other. Ms. Gravalese obtained her Order in Tempe City Court and Mr. Zenner obtained an Order in the Tempe Justice Court.
20. Ms. Gravalese moved out of the house in late December 2002. She remained living in the Phoenix area until April 2005 when she moved back to Boston.
21. Ms. Gravalese did not prove an appraisal for the jewelry in question. However, she testified she valued the jewelry as follows:
  - a. Rolex watch - \$5,200 - \$5,600
  - b. Diamond Pendant - \$2,700
  - c. Diamond Necklace - \$2,400
  - d. Rolex ring - \$2,200 - \$2,500
  - e. Gold bracelets - \$600Total = \$13,800
22. Ms. Gravalese did not provide any invoices as to any moving expenses she incurred in her move to Boston in April 2005.

**CONCLUSIONS OF LAW**

1. The document executed and signed by Mr. Zenner (Exhibit 16) but not signed by Ms. Gravalese is neither a promissory note nor a contract.
2. There is no evidence with respect to the document that there was a "meeting of the minds" between the parties.
3. The Court finds that Exhibit 31 lacks credibility as a valid Note or Contract.
4. Unjust enrichment requires that the following elements be proven: 1) An enrichment; 2) An impoverishment; 3) A connection between the enrichment and the impoverishment; 4) Absence of justification for the enrichment and impoverishment; and 5) Absence of an adequate remedy at law. Community Guardian Bank v. Hamlin, 182 Ariz. 627 (App. 1995).

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5. Ms. Gravalese has met the above requirements to establish that Mr. Zenner was unjustly enriched by the pawning of Ms. Gravalese's jewelry.
6. While Mr. Zenner was enriched by the amount of money gained by the pawned jewelry, (\$2,600), Ms. Gravalese's impoverishment was the value of the jewelry (\$13,800).
7. Mr. Zenner owes restitution to Ms. Gravalese in the amount of \$13,800 as a result of the aforementioned unjust enrichment.
8. Because Ms. Gravalese produced no evidence of moving expenses that were actually paid, the Court finds that no award of moving expenses is required.
9. The doctrine of unjust enrichment is a duty-imposed in equity. It is not a true contract but rather a quasi contract.

Accordingly, pursuant to the above findings of fact and conclusions of law,

**IT IS ORDERED** that Ms. Gravalese have Judgment against Mr. Zenner in the amount of \$13,800. No interest shall be due on said Judgment. See Suzico, Inc. v. Maricopa County, 187 Ariz. 269 (App. 1996).

Further, given that said Judgment is awarded pursuant to an unjust enrichment and not a contract or promissory note,

**IT IS ORDERED** each party shall bear their own costs and fees.