

COURT OF APPEAL FOR ONTARIO

CITATION: L-Jalco Holdings Inc. v. Murano, 2014 ONCA 56

DATE: 20140124

DOCKET: C55830

Rosenberg, Cronk and Tulloch JJ.A.

BETWEEN

L-Jalco Holdings Inc.

Plaintiff (Respondent)

and

Joseph Murano and Marjorie Babcock

Defendants (Appellants)

and

Calin A. Lawrynowicz and Your Legal Business Partners Inc.

Third parties

Amandeep S. Dhillon, for the appellants

Sean Dewart, for the respondent

Heard: January 21, 2014

On appeal from the judgment of Justice Heidi S. Levenson Polowin of the Superior Court of Justice, dated July 5, 2012.

APPEAL BOOK ENDORSEMENT

[1] On the appeal, the appellants no longer contest the validity of the mortgage. The only issues raised concern approximately \$315,000 for which the appellants claim were not shown to have been advanced by the respondent or

having been made before the mortgage was signed, were not advanced under the mortgage. We could not give effect to these submissions. We agree with the motion judge that there is no requirement that the mortgagee proved the source of the funds in the circumstances of this case. The evidence, particularly Mr. Murano's own affidavit and cross-examination, demonstrate that he accepted that the funds were advanced under the mortgage.

[2] Accordingly, the appeal is dismissed with costs fixed at \$20,000 inclusive of HST and disbursements.