

United States Court of Appeals
For the Eighth Circuit

No. 12-2508

Bank of America, N.A.

Plaintiff - Appellee

v.

Gary R. Peterson; Sally L. Peterson

Defendants - Appellants

JP Morgan Chase Bank, N.A., and its successors and assigns;
Horizon Bank, National Association; Clear & Close Title Agency, Ltd.,
also all heirs and devisees of any of the above-named persons who
are deceased; and all other persons or entities claiming any right,
title, estate, lien or interest in real estate described in the Summons
and Complaint herein

Defendants

Appeal from United States District Court
for the District of Minnesota - Minneapolis

Submitted: March 4, 2015

Filed: April 15, 2015

Before WOLLMAN, BYE, and COLLOTON, Circuit Judges.

WOLLMAN, Circuit Judge.

This case is before us on remand from the United States Supreme Court. In Peterson v. Bank of America, N.A., 135 S. Ct. 1153 (2015), the Court granted a writ of certiorari, vacated this court's judgment in Bank of America, N.A. v. Peterson, 746 F.3d 357 (8th Cir. 2014), and remanded the case to us for reconsidering in light of its decision in Jesinoski v. Countrywide Home Loans, Inc., 135 S. Ct. 790 (2015).

In Peterson, we relied upon our court's decision in Keiran v. Home Capital, Inc., 720 F.3d 721 (8th Cir. 2013), in holding that the Petersons' claim for rescission under the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, was time-barred by 15 U.S.C. § 1635(f) because of their failure to file a lawsuit within three years of their transaction with Bank of America. 746 F.3d at 360. The Supreme Court held in Jesinoski that the Keiran court had erred in holding that a borrower's failure to file a suit for rescission within three years of the transaction's consummation extinguishes the right to rescind and bars relief. 135 S. Ct. at 792.

In light of the Court's holding in Jesinoski, we vacate that portion of our judgment in Bank of America N.A. v. Peterson that granted Bank of America summary judgment on the Petersons' claim for rescission, reinstate that portion of our judgment that vacated the grant of summary judgment to Bank of America on the Petersons' counterclaim for statutory damages, and remand the case to the district court for further proceedings consistent with this opinion.