

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

HORIZONS AT CAMELBACK HOMEOWNERS ASSOCIATION INC,
Plaintiff/Appellee,

v.

GILDARDO ANGULO, et al.,
Defendants/Appellees.

No. 1 CA-CV 18-0236
FILED 11-1-2018

Appeal from the Superior Court in Maricopa County
No. CV2017-00252
The Honorable Rosa Mroz, Judge

VACATED AND REMANDED

COUNSEL

Gildardo Angulo and Irma Gamez, Phoenix
Defendants/Appellants

Brown | Olcott, PLLC, Phoenix
By Nathan Tennyson
Counsel for Plaintiff/Appellee

MEMORANDUM DECISION

Chief Judge Samuel A. Thumma delivered the decision of the Court, in which Judge Michael J. Brown and Judge Jennifer B. Campbell joined.

T H U M M A, Chief Judge:

¶1 Defendants/Appellants Gildardo Angulo and Irma Gamez (Appellants) timely appeal from a final judgment against them and in favor of Plaintiff/Appellee Horizons at Camelback Homeowners Association, Inc. (Horizons). For the reasons that follow, given Horizons' response on appeal, the judgment is vacated and this matter remanded to the superior court for further proceedings.

¶2 Horizons filed this case alleging Appellants breached their contractual obligations to pay assessments, late charges and interest. The superior court denied Horizons' first motion for summary judgment, noting "[i]n summary, the Court has no idea what amount is the assessment lien or what comprises [] the amount asserted." That court granted Horizons' second motion for summary judgment, resulting in the judgment appealed from awarding Horizons \$6,213.50 in damages; \$2,434 in attorneys' fees and \$870.75 in costs, all plus interest and all secured by a notice of lien on specified property. This timely appeal followed.

¶3 Appellants, who are self-represented, argue on appeal that the second motion for summary judgment should not have been granted; that their request for an extension of time to respond to the second motion should have been granted and that the superior court lacked jurisdiction to order the relief requested given that Horizons failed to comply with Arizona Revised Statutes section 33-1807. Appellants ask that this court vacate the judgment and remand for further proceedings.

¶4 Horizons' response on appeal "consents to an order: (1) vacating the Judgment . . . (2) denying, or directing the Trial Court to deny, the [second motion for summary judgment and] . . . (3) remanding . . . for further proceedings." Horizons adds that it "attempted to resolve this matter with Appellants to avoid the necessity of a ruling by this Court. However, Appellants have refused to respond to communication attempts made by Horizons . . . during the pendency of this appeal."

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¶5 Given Horizons' response on appeal, which in substance confesses error, this court vacates the final judgment, as well as the order granting the second motion for summary judgment resulting in the final judgment, and remands for further proceedings consistent with this decision. As prevailing parties on appeal, Appellants are awarded their taxable costs on appeal contingent upon their compliance with Ariz. R. Civ. App. P. 21.



AMY M. WOOD • Clerk of the Court
FILED: AA