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REPORTS**

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IN THE COURT OF APPEAL OF THE STATE OF  
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

AKBAR OMAR,

Plaintiff and Appellant,

v.

MEHER F. TABATABAI,

Defendant and Respondent.

B276689

(Los Angeles County  
Super. Ct. No. BC457773)

APPEAL from a judgment of the Superior Court of Los Angeles County, Ruth Ann Kwan, Judge. Affirmed.

Apex Lawyers Inc. and Shazad Z. Omar for Plaintiff and Appellant.

The Feldhake Law Firm, Robert J. Feldhake and Joseph K. Jeffrey for Defendant and Respondent.

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Akbar Omar (Omar) sued Syed Madad and his wife Meher F. Tabatabai (Tabatabai), among other defendants, for breach of contract, fraud, unjust enrichment, and other causes of action, all related to Omar's more than \$10 million investment in Madad's investment pool. The third amended complaint alleged that Madad and Tabatabai lied about the investment pool, which was actually a Ponzi scheme, and returned only a small portion of Omar's investment. At the close of evidence, the trial court granted Tabatabai's motion for nonsuit on Omar's cause of action for unjust enrichment. The jury found in favor of Tabatabai on all Omar's remaining causes of action, and the court entered judgment in Tabatabai's favor. Omar filed a timely notice of appeal from the trial court's order dismissing the unjust enrichment cause of action against Tabatabai.

Omar's sole argument on appeal is that the trial court erred when it granted the motion for nonsuit and held that he could not maintain an independent cause of action for unjust enrichment against Tabatabai. We reject this argument and affirm.

## **DISCUSSION**

At the close of evidence, the trial court conducted a hearing on Tabatabai's motion for nonsuit on Omar's cause of action for unjust enrichment. Omar's counsel argued that because Tabatabai had spent money that her husband Madad made from the investment pool, she had been unjustly enriched. Tabatabai's counsel argued that the evidence showed that only Madad controlled the money from

the pool, and no evidence showed that Tabatabai knew that she was using money derived from the pool. She had already forfeited anything that had been purchased with money traceable to those funds (such as jewelry, home improvements and repairs, real estate, vehicles, and clothes).<sup>1</sup> Nothing remained for her to return. Further, unjust enrichment is a remedy, not an independent cause of action.

The trial court stated, “I believe this court is bound by following this appellate district’s decisions [that have] been cited by the defendants and would find that unjust enrichment is not a cause of action.” Further, Omar “has [not] proved unjust enrichment in this case.” The court later clarified, “it appears that everything that she ever had gotten through [the investment pool] money has been given back to the U.S.,” and repeated “[t]here is no such cause of action for unjust enrichment.”

“ ‘A trial court may grant a nonsuit only when, disregarding conflicting evidence, viewing the record in the light most favorable to the plaintiff and indulging in every legitimate inference which may be drawn from the evidence, it determines there is *no* substantial evidence to support a

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<sup>1</sup> Tabatabai voluntarily signed forfeitures for the property in connection with a consent judgment in a federal forfeiture action, and subsequently notified the United States Attorney when a bank notified her of the release of funds belonging to the investment pool, so that the money could be added to the investor restitution fund.

judgment in the plaintiff's favor.' [Citation.] Our review is de novo." (*Jumaane v. City of Los Angeles* (2015) 241 Cal.App.4th 1390, 1399–1400.)

This court has repeatedly held that unjust enrichment is not a separate cause of action. (*Daniel v. Wayans* (2017) 8 Cal.App.5th 367, 399, review granted May 10, 2017, S240704; *Jogani v. Superior Court* (2008) 165 Cal.App.4th 901, 911.) "[T]here is no cause of action in California for unjust enrichment. . . . [Citation.] Unjust enrichment is 'a general principle, underlying various doctrines and remedies,' rather than a remedy itself. [Citation.] It is synonymous with restitution." (*Melchior v. New Line Productions, Inc.* (2003) 106 Cal.App.4th 779, 793.) "There is no cause of action for unjust enrichment. Rather, unjust enrichment is a basis for obtaining restitution based on quasi-contract or imposition of a constructive trust." (*McKell v. Washington Mutual, Inc.* (2006) 142 Cal.App.4th 1457, 1490.) Courts in other districts agree. (*Rutherford Holdings, LLC v. Plaza Del Rey* (2014) 223 Cal.App.4th 221, 231; *Hill v. Roll Internat. Corp.* (2011) 195 Cal.App.4th 1295, 1307; *Levine v. Blue Shield of California* (2010) 189 Cal.App.4th 1117, 1138.)

Omar argues it was error to hold that he had not proved unjust enrichment, and "there can be no dispute that Respondent used money that rightfully belonged to Appellant and has retained the benefit thereof and continues to do so despite knowing that the funds did not belong to her." This ignores that the jury subsequently found that

Tabatabai did not commit fraud or negligent misrepresentation, and did not aid and abet her husband Madad in committing fraud and breaching his fiduciary duty to Omar. The jury also found that Tabatabai was not the alter ego of the investment pool. As unjust enrichment is not a separate cause of action, and as the jury found in favor of Tabatabai on all of Omar's causes of action, as a practical matter the jury verdict cannot serve as the basis for the remedy of unjust enrichment.

**DISPOSITION**

The judgment is affirmed. Meher F. Tabatabai is awarded her costs on appeal.

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JOHNSON, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.