

No. 1-15-2287

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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RHOMBUS ASSET MANAGEMENT, INC. and	)	Appeal from the
CENTRAL AND EASTERN EUROPEAN	)	Circuit Court of
INVESTMENT FUND,	)	Cook County.
	)	
Plaintiffs/Counter Defendants-Appellees,	)	
v.	)	No. 07 CH 3966
	)	
GLENNA MO and EASTERN PIONEER CAPITAL,	)	
INC.,	)	Honorable
	)	Rodolfo Garcia,
Defendants/Counter Plaintiffs-Appellants.	)	Judge Presiding.

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JUSTICE CUNNINGHAM delivered the judgment of the court.  
Presiding Justice Hoffman and Justice Delort concurred in the judgment.

**ORDER**

¶ 1 *Held:* The circuit court did not err in entering a summary determination in favor of the plaintiffs, in finding that defendant Mo breached her fiduciary duty to plaintiffs and was unjustly enriched, or in denying the defendant’s counterclaims. The breach of fiduciary duty and unjust enrichment judgment against defendant Eastern is reversed.

¶ 2 Plaintiffs/counter defendants-appellees, Rhombus Asset Management, Inc. (Rhombus) and Central and Eastern European Investment Fund (CEEIF), filed suit in the circuit court of Cook County against defendants/counter plaintiffs-appellants, Glenna Mo (Mo) and Eastern Pioneer Capital, Inc. (Eastern). The complaint alleged that Mo and Eastern breached their

fiduciary duties to Rhombus and CEEIF, resulting in their unjust enrichment. Mo and Eastern filed counterclaims seeking a declaration that Mo was entitled to additional shares in Rhombus and CEEIF and damages for Rhombus' breach of an agreement to repay Mo for payments she made to third parties on Rhombus' behalf. The circuit court entered a summary determination in favor of Rhombus and CEEIF on Mo and Eastern's counterclaim for breach of contract, except for the loans sourced from one specific third-party lender. Following trial, the circuit court ruled in favor of Rhombus and CEEIF on their claims for breach of fiduciary duty and unjust enrichment. The circuit court further ruled against Mo and Eastern on their remaining counterclaims. Mo and Eastern filed a postjudgment motion, which the circuit court denied. Mo and Eastern now appeal. For the following reasons, we affirm all the judgments against Mo and reverse all the judgments against Eastern.

¶ 3 **BACKGROUND**

¶ 4 The parties' claims arise from loan transactions between Rhombus and third-party lenders. The facts of this case are complex and are poorly laid out in the parties' briefs. We summarize the facts as gleaned from our review of the extensive record.

**Formation of Corporations**

¶ 5 This case involves three corporations: Rhombus, CEEIF, and Eastern. All three corporations are legally distinct, but have overlapping shareholders, including Mo.

¶ 6 In 1997, Mo and Alexander Hergan formed Eastern, an Illinois corporation, to invest in real estate projects.<sup>1</sup>

¶ 7 In 1998, Mo, Hergan, Mark Proskine, and Russell Wasendorf (collectively the Rhombus shareholders), formed Rhombus, an Illinois corporation, to finance the development of

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<sup>1</sup> Eastern is now owned 100% by Mo, as Hergan no longer has any ownership interest. The record is silent as to how Hergan transferred his ownership interest in Eastern to Mo.

Romanian real estate. At the time of Rhombus' formation, Mo served as secretary and was issued 13,600 shares in Rhombus, which represented 17% of the total issued shares.

¶ 8 In 2000, the Rhombus shareholders formed CEEIF, an entity incorporated under the laws of Cyprus, as a holding company for Rhombus' Romanian projects. CEEIF, through Romanian subsidiaries and affiliates, engaged in the purchase, development, and sale of real estate in Romania. While Rhombus and CEEIF were separate entities, Rhombus procured funds for projects to be undertaken by CEEIF. Each of the Rhombus shareholders was issued shares of stock in CEEIF. Hergan received 312,765 shares, Proskine received 286,550 shares, Wasendorf received 157,305 shares, and Mo received 154,345 shares, which represented 11% of the 1.4 million shares issued at the time.

#### **The Lee Transactions**

¶ 9 In October 2002, Mo and Hergan, on behalf of Rhombus, solicited a third-party lender, Robert Lee, to loan \$500,000 to Rhombus for its Charles de Gaulle project. Mo prepared the loan agreement between Lee and Rhombus. At Mo's request, Lee did not distribute loan proceeds to Rhombus directly, but instead made his \$500,000 check payable to Eastern. All parties understood that, after the loan agreement was executed between Lee and Rhombus, Lee would pay Eastern directly instead of paying Rhombus, and Eastern would then transfer the funds to Rhombus for the designated project.

¶ 10 Lee made two more loans to Rhombus through Eastern: \$150,000 in April 2003 for Rhombus' Predeal project; and \$250,000 in June 2003 for Rhombus' Raiffeisen Bank project. As with the first loan, Mo prepared the loan agreements between Lee and Rhombus, Lee made the checks payable to Eastern, and Eastern wired the proceeds to Rhombus.

### **June 2006 Meeting**

¶ 11 In June 2006, Rhombus and CEEIF shareholders held a meeting to determine upcoming dividend payments to all shareholders. According to Mo, the purpose of the June 2006 meeting was to resolve an ownership interest dispute, as she had been demanding an increased percentage of ownership in Rhombus and CEEIF for some time. Mo retained attorney Mitchell Pawlan to assist in pursuing her demand. During the meeting, Mo and Pawlan presented the other shareholders with several spreadsheets that purportedly showed the amounts that third-party lenders solicited by Mo had loaned to Rhombus and CEEIF, as well as the amounts of Mo's personal capital contributions to Rhombus and CEEIF's projects.

¶ 12 The spreadsheets referred to Lee's loans as Mo's capital contributions in Rhombus' projects, and not as loans to be repaid by Rhombus. Other shareholders in attendance asserted that, during the meeting, Mo told them that she would personally repay the loans from Lee in exchange for an increased percentage of ownership in Rhombus and CEEIF. Based on these representations, the shareholders agreed to give Mo a higher percentage of ownership in Rhombus and CEEIF.

¶ 13 At the conclusion of the meeting, all of the Rhombus and CEEIF shareholders, except for a new shareholder, Edwin Warmerdam, signed a document drafted by Pawlan (June 2006 Agreement). The three-page agreement listed the adjusted percentage of ownership in CEEIF<sup>2</sup>, subject to dilution: 30% for Hergan; 23% for Proskine; 20% for Mo (up from 11%); 15% for Wasendorf; and 12% for a new shareholder, Coplader, Ltd. The June 2006 Agreement also stated that "[a]ll private agreements between the parties regarding the lending of monies and the consideration paid therefore \*\*\* shall remain binding and in full force and effect \*\*\*." The

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<sup>2</sup> The June 2006 Agreement does not address percentage of ownership in Rhombus.

shareholders agreed to cause CEEIF to make dividend payments based on their adjusted percentages of ownership.

### **The Dispute over Repayment of Lee's Loans**

¶ 14 Before the dividend distribution, Mo told Pawlan that she wanted to renege on the June 2006 Agreement and require Rhombus to repay Lee's loans that she had represented she would pay. Pawlan told Mo that the June 2006 Agreement obligated her to pay back Lee, and that if she intended to renege on that obligation she should stop the anticipated wire transfer of her upcoming dividend payments from Rhombus and CEEIF. Mo did not stop the wire transfer.

¶ 15 On June 22, 2006, based on the adjusted percentages of ownership, Rhombus paid a dividend to Mo of \$844,660, and on June 29, 2006, CEEIF paid her a dividend of \$4,194,892.50. After she received these payments, Mo instructed Pawlan to inform the other shareholders that she would not be repaying Rhombus' loans which were received from Lee.

¶ 16 Neither Mo nor Rhombus repaid the principal on any of Lee's loans. Mo testified that she did make certain interest payments on Lee's loans on Rhombus' behalf when Rhombus was unable to do so. Mo claimed she paid a total of almost \$300,000 in interest on Lee's loans.

### **Trial Court Proceedings**

¶ 17 Rhombus and CEEIF filed their complaint against Mo and Eastern on March 12, 2009. The two counts relevant here alleged that: (count II) Mo and Eastern breached their fiduciary duties by failing to repay Lee's loans, and (count V) Mo and Eastern were unjustly enriched as a result.

¶ 18 Mo and Eastern filed counterclaims against Rhombus and CEEIF, seeking a declaration that Mo was entitled to additional shares in Rhombus and CEEIF based on the benefits she provided the two corporations as a shareholder and officer. Mo also claimed that Rhombus

breached an oral contract with her by failing to reimburse her for interest payments she made on Rhombus' behalf to its lenders, including Lee.

¶ 19 On August 1, 2012, the trial court entered a summary determination<sup>3</sup> in favor of Rhombus and CEEIF on Mo and Eastern's counterclaim alleging breach of contract regarding transactions with third-party lenders, except to the extent the claim was premised on Lee's loans.

¶ 20 Meanwhile, Lee filed a separate action and asserted a breach of contract claim against Rhombus based on Rhombus' failure to repay his loans (the Lee action). Lee's complaint alleged an alternative breach of contract claim against Mo and Eastern "in the event Mo and/or Eastern, and not Rhombus, is found responsible for repayment of Lee's [loans]." On February 10, 2015, Lee obtained a judgment against Rhombus in the amount of \$1,934,097.60. The court, therefore, entered a judgment in favor of Lee against Rhombus, but not against Mo and Eastern on Lee's alternative claim. In holding Rhombus liable to Lee for the breach of contract instead of Mo and Eastern, the court focused on the fact that the loan agreements were executed between Lee and Rhombus, and that Rhombus received the loan payments. The Lee action was a separate proceeding and is not part of this appeal.

¶ 21 This case proceeded to trial. On February 19, 2015, the trial court issued separate judgments on Rhombus and CEEIF's claims and on Mo and Eastern's counterclaims. The trial court found that Mo and Eastern owed fiduciary duties to Rhombus, CEEIF, and to the other shareholders, and that they breached those duties when Mo falsely represented that she would repay Lee's loans on Rhombus' behalf, causing Rhombus to incur liability to Lee when the loans

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<sup>3</sup> The record and the parties state that the trial court entered summary judgment. However, the court actually entered a summary determination because it determined there was no genuine issue of material fact as to the major issues regarding Mo and Eastern's breach of contract claim, but reserved the issue regarding Lee's loans for trial. See 735 ILCS 5/2-1005(d) (West 2016).

were not repaid. The court further concluded that Mo and Eastern were unjustly enriched at Rhombus and CEEIF's expense because Mo's agreement to repay Lee's loans resulted in her receiving nearly double the dividend payment she would have received otherwise. In its final order, the court stated: "Final Judgment is entered in favor of [Rhombus and CEEIF] and against [Mo and Eastern], jointly and severally, on counts II and V of [the complaint] in the amount of \$1,934,097.60."

¶ 22 The second judgment order found in favor of Rhombus and CEEIF on both counts of Mo and Eastern's counterclaims. The court found that Mo was not entitled to additional shares in Rhombus and CEEIF, and that Mo and Eastern failed to prove their breach of contract claim against Rhombus and CEEIF.

¶ 23 Mo and Eastern filed a postjudgment motion, requesting the trial court to modify or vacate its judgments on the ground that they ignored the evidence and were contrary to the judgment in the Lee action. The postjudgment motion was denied.

¶ 24 Mo and Eastern filed a timely notice of appeal, challenging (1) the summary determination order entered in favor of Rhombus and CEEIF, (2) both of the trial court's judgments of February 19, 2015 entered in favor of Rhombus and CEEIF, and (3) the denial of the postjudgment motion.

¶ 25 ANALYSIS

¶ 26 We note that we have jurisdiction, as Mo and Eastern filed a timely notice of appeal after the order denying their postjudgment motion. Ill. S. Ct. R. 301 (eff. Feb. 1, 1994); Ill. S. Ct. R. 303 (eff. Jan. 1, 2015).

¶ 27 As a preliminary matter, we must address the issue of the proper parties on the different claims. While issues relating to the judgment in favor of Rhombus against Mo, an officer and

shareholder, are relatively straightforward, the same analysis cannot support the judgment against Eastern.

¶ 28 The parties' briefs are poorly written and largely unhelpful in unraveling the issues. Mo and Eastern's statement of facts is rambling and confusing. Rhombus and CEEIF's response brief contains no counter statement of facts, but launches immediately into argument. Rhombus and CEEIF's brief devotes exactly one page to a discussion of the legal basis for any claim Rhombus has against Eastern for breach of fiduciary duty arising from the Lee loans. And there is absolutely no discussion of any cognizable claim CEEIF – who was not a party to the loan agreements – has against Eastern. The index to the 45-volume record is wholly inadequate, as it omits all of the information required by Ill. Sup. Ct. R. 342(a)(1)-(a)(3) (eff. Jan. 1, 2005). Accordingly, in order to unravel this morass of parties, issues, and claims, we will address the different parties as they relate to each claim.

¶ 29 Turning to the merits of the case, Mo and Eastern first argue that the trial court erred in granting a summary determination in favor of Rhombus and CEEIF on Mo and Eastern's breach of contract counterclaim arising from Mo's interest payments on third party loans. They argue that the trial court erred by disregarding "ample evidence" of Rhombus' promise to repay Mo for advancing interest payments.

¶ 30 Section 2-1005(d) of the Code of Civil procedure allows a party to seek a summary determination of "one or more, but less than all, of the major issues in the case, [if] the court finds that there is no genuine issue of material fact as to that issue or those issues." *Fifth Third Bank, N.A. v. Rosen*, 2011 IL App (1st) 093533, ¶ 21 (quoting 735 ILCS 5/2-1005(d) (West 2016)). We review a summary determination *de novo*. *Id.*



¶ 31 As to Mo and Eastern's breach of contract counterclaim against Rhombus and CEEIF, the trial court found that they failed to present any evidence showing that an agreement existed between Mo and Rhombus regarding interest she paid third-party lenders on Rhombus' behalf. The party seeking to enforce an agreement has the burden of establishing the existence of the agreement, as well as the specific terms of the contract. *Long v. Arthur Rubloff & Co.*, 27 Ill. App. 3d 1013, 1024 (1975).

¶ 32 Despite Mo and Eastern's argument that there was "ample evidence" of Rhombus' promise to repay her, the only evidence they identified was the June 2006 Agreement, relying on the paragraph that states "[a]ll private agreements between the parties regarding the lending of monies and the consideration paid therefore \*\*\* shall remain binding and in full force and effect between the subject parties." This provision, standing alone, fails to show the existence of an oral contract whereby Rhombus and CEEIF agreed to repay Mo for interest payments she made on Rhombus' behalf to third party lenders other than Lee. Mo and Eastern presented no other evidence that an agreement existed. On the other hand, Rhombus submitted testimony by Hergan that admitted that Mo did make various payments on Rhombus' behalf, and that it was understood by all parties that Mo would be compensated by dividend payments at a later date, but that there was never an agreement by Rhombus to directly pay her back. Because Mo and Eastern failed to establish the existence of a contract, their breach of contract claim necessarily failed. Accordingly, the trial court did not err in entering a summary determination in favor of Rhombus and CEEIF on Mo and Eastern's breach of contract claim.

¶ 33 Next, Mo and Eastern challenge the trial court's finding that they breached their fiduciary duties to Rhombus, CEEIF, and the other shareholders.

¶ 34 Mo argues that she did not breach her fiduciary duty because she was not responsible for repaying Rhombus' loans made by Lee. She also argues that the judgment against her and in favor of Rhombus is inconsistent with the judgment against Rhombus in the Lee action.

¶ 35 To state a claim for breach of fiduciary duty, a party must allege and ultimately prove: (1) that a fiduciary duty exists; (2) a breach of that duty; and (3) damages flowing from the breach. *Lawlor v. North American Corp. of Illinois*, 2012 IL 112530, ¶ 69. It is well established that shareholders in a closely held corporation owe a fiduciary duty to the other shareholders, similar to duties owed by partners in a partnership. *Hagshenas v. Gaylord*, 199 Ill. App. 3d 60, 70 (1990). This includes a duty to exercise the highest degree of honesty and good faith in their dealings and in the handling of business assets, thereby prohibiting enhancement of personal interests at the expense of the interests of the enterprise. *Id.* at 71. We review the trial court's judgment in favor of Rhombus and CEEIF to determine whether the judgment is against the manifest weight of the evidence. *1515 N. Wells, L.P. v. 1513 N. Wells, L.L.C.*, 392 Ill. App. 3d 863, 874 (2009). A judgment is against the manifest weight of the evidence only where the opposite result is clearly evident from the record. *In re Marriage of Betsy M.*, 2015 IL App (1st) 151358, ¶ 61.

¶ 36 While Mo disputes the existence of an agreement requiring her to repay Lee's loans, this was a factual question and its resolution against Mo is not against the manifest weight of the evidence. Whether, in fact, Mo agreed to assume Rhombus' liability to Lee for the loans depended entirely on the trial court's assessment of the credibility of the witnesses. Hergan and Proskine testified that, as part of the agreement to increase Mo's percentage of ownership and proportionate share of dividends, Mo agreed to assume Rhombus' liability to Lee; Mo denied that she ever made such a promise. It was the trial court's province to determine the weight to be

given to the testimony of each witness. See *In re Davon H.*, 2015 IL App (1st) 150926, ¶ 47 (the trial court is in the best position to observe the parties and witnesses and is therefore in the best position to determine the credibility and weight to be given to the witnesses' testimony).

¶ 37 We also reject Mo's contention that the judgments were inconsistent with each other. Lee made loans to Rhombus, Rhombus failed to repay those loans, and Rhombus was ultimately held liable for breach of contract in the Lee action. Any agreement between Rhombus and Mo as to who would ultimately repay Lee's loans was immaterial to that judgment. Rhombus, on the other hand, agreed with Mo that, in exchange for a larger percentage of ownership (and a correspondingly higher amount of dividend payments), Mo would assume Rhombus' liability to Lee on the loans. Given Mo's failure to honor the agreement, it follows that Mo's liability to Rhombus on this claim is co-extensive with Rhombus' liability to Lee. Thus, the judgments are entirely consistent. Accordingly, the trial court's finding that Mo breached her fiduciary duty to Rhombus, CEEIF, and the other shareholders by failing to repay the loans made by Lee was not against the manifest weight of the evidence.

¶ 38 Eastern argues, on the other hand, that the breach of fiduciary duty finding against it is against the manifest weight of the evidence. We agree because Eastern never owed a fiduciary duty to Rhombus and CEEIF.

¶ 39 Citing *Trossman v. Phillipsborn*, 373 Ill. App. 3d 1020 (2007), Rhombus states that Illinois "recognizes the doctrine of reverse piercing the corporate veil," asserts a "unity of interest" between Eastern and Mo (with no citation to evidence in the record) and concludes that "[Eastern] as well as Mo" breached fiduciary duties to both Rhombus and CEEIF.

¶ 40 We disagree with this contention. Rhombus and CEEIF pursued a breach of fiduciary duty claim against both Mo, a shareholder, and Eastern, a separate legal entity. But there is

nothing in the record to establish that Eastern owed Rhombus and CEEIF a fiduciary duty. Therefore, we reverse the breach of fiduciary duty judgment against Eastern.

¶ 41 Mo next challenges the trial court's finding of unjust enrichment. Mo's argument that the trial court erred in its unjust enrichment finding is two-fold.

¶ 42 First, she claims that her higher dividend payment was not the result of any representation to the other shareholders. Instead, she claims that the higher dividend payment she received was the resolution of a long-standing dispute as to Mo's percentage of ownership in Rhombus and CEEIF. Mo claims that she had been demanding an increased percentage of ownership from the other shareholders for a long time, and that the entire purpose of the June 2006 meeting was to resolve this dispute. Thus, she claims the other shareholders' agreement to increase her percentage of ownership was unrelated to her alleged misrepresentations. Rhombus argues in response that the increased percentage of ownership Mo received from the June 2006 Agreement was due only to her representations that she would personally repay Lee's loans.

¶ 43 Second, Mo claims that she could not be unjustly enriched because she was never repaid by Rhombus for interest payments she made on Rhombus' behalf. Rhombus counters that, even if Mo did make the approximately \$300,000 interest payments on Lee's loans, she still received nearly double the dividend payment she would have received without her misrepresentations, which unjustly enriched her by a far greater amount than her interest payments to Lee on behalf of Rhombus.

¶ 44 For a plaintiff to prevail on an unjust enrichment claim, the evidence must establish that the defendant unjustly retained a benefit to the plaintiff's detriment and that the retention of the benefit violates the fundamental principles of justice, equity, and good conscience. *National Union Fire Insurance Company of Pittsburgh v. DiMucci*, 2015 IL App (1st) 122725, ¶ 67

(citing *HPI Health Care Services, Inc. v. Mt. Vernon Hospital, Inc.*, 131 Ill. 2d 145, 160 (1989)).

We review whether the court's finding of unjust enrichment was against the manifest weight of the evidence. *Geske v. Geske*, 343 Ill. App. 3d 881, 886 (2003). A finding is against the manifest weight of the evidence only where the factual findings upon which it is based are unreasonable, arbitrary, or not based on the evidence. *Madison Miracle Productions, LLC v. MGM Dividend Co.*, 2012 IL App (1st) 112334, ¶ 35.

¶ 45 We reject both parts of Mo's argument. The trial court, after hearing conflicting testimony about the reason for Mo's increased percentage of ownership, found that it was due to her representations made during the June 2006 meeting that she would be personally responsible for Lee's loans. Regarding the interest payments Mo allegedly made on Rhombus' behalf, Mo has not provided any evidence other than her own testimony, which the court found to be incredible. Even if the court believed her, Mo argues that she paid almost \$300,000 in interest on Rhombus' behalf, but her dividend amount increased by \$2,453,688, which greatly exceeds that amount. Thus, the trial court's finding that Mo was unjustly enriched was not against the manifest weight of the evidence.

¶ 46 The trial court entered judgment against Mo on both counts of Rhombus and CEEIF's complaint, count II for breach of fiduciary duty and count V for unjust enrichment, and the court then assessed total damages of \$1,934,097.60. Rhombus and CEEIF have not filed a cross-appeal addressing the issue of damages. For the foregoing reasons, we affirm the judgment against Mo on both counts.

¶ 47 We note that, although the award was against Mo and Eastern jointly and severally, Eastern makes no argument on appeal that the court erred in finding it was unjustly enriched. It could be said that Eastern has forfeited this argument. See Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1,

2016); *First National Bank of LaGrange v. Lowrey*, 375 Ill. App. 3d 181, 208 (2007) (arguments not raised in an appellant's brief are forfeited). However, forfeiture is a limitation on the parties and not the reviewing court. See *Wilson v. Humana Hospital*, 399 Ill. App. 3d 751, 757 (2010) (this court may overlook forfeiture where necessary to obtain a just result). If Eastern did not owe Rhombus and CEEIF a fiduciary duty, it necessarily follows that Eastern was not unjustly enriched. Accordingly, we reverse the unjust enrichment judgment against Eastern.

¶ 48 Mo next challenges the trial court's judgment in favor of Rhombus and CEEIF on her counterclaims.

¶ 49 Mo's counterclaims alleged a breach of contract claim against Rhombus for failing to repay her when she allegedly paid the interest on Lee's loans on behalf of Rhombus, and she also sought a declaration that she was entitled to additional shares in Rhombus and CEEIF.

¶ 50 Mo argues that Rhombus breached its oral agreement with her when Rhombus agreed that she would pay the interest payments on Lee's loans on Rhombus' behalf, and that Rhombus would repay her but failed to do so.

¶ 51 To establish a breach of an oral agreement, the plaintiff must show an offer and acceptance, consideration, definite and certain terms of a valid contract, plaintiff's performance of all required contractual conditions, the defendant's breach of the terms of the contract, and damages resulting from the breach. *Mannion v. Stallings & Co.*, 204 Ill. App. 3d 179, 186 (1990). We will not reverse a trial court's finding that a plaintiff did not sustain his burden of proof as to these elements unless it is contrary to the manifest weight of the evidence. *Id.*

¶ 52 Mo failed to provide any evidence, other than her own testimony which the trial court found to be incredible, that an agreement ever existed by which Rhombus agreed to reimburse her for interest she paid on Lee's loans. The trial court, as the trier of fact, was not required to

believe her testimony. See *People v. Lofton*, 49 Ill. App. 3d 559, 561 (1977). As the trial court could, and apparently did, reasonably find that there was no contract or agreement between Rhombus and Mo, it cannot be said that the trial court's judgment against Mo on her breach of contract counterclaim was against the manifest weight of the evidence.

¶ 53 We next review the trial court's judgment against Mo on her counterclaim for a declaratory judgment seeking additional shares in Rhombus and CEEIF.

¶ 54 Mo argues that, although the number of her shares has never changed, her percentage of ownership has decreased since the June 2006 meeting, and is currently at 10.8%. She claims that this is less than what she was entitled to based not only on the June 2006 Agreement, but also on her performance as a shareholder for Rhombus and CEEIF. She, therefore, argues that she should be given additional shares in order to increase her percentage of ownership.

¶ 55 The granting or denying of declaratory relief rests within the sound discretion of the trial court. *Marlow v. American Suzuki Motor Corp.*, 222 Ill. App. 3d 722, 728 (1991). A trial court abuses its discretion when its finding is against the manifest weight of the evidence, or if no reasonable person would take the view adopted by it. *Baker v. Daniel S. Berger, Ltd.*, 323 Ill. App. 3d 956, 963 (2001) (quoting *Technology Innovation Center, Inc. v. Advanced Multiuser Technologies Corp.*, 315 Ill. App. 3d 238, 244 (2000)).

¶ 56 Mo's entitlement to declaratory relief depends on the factual findings the trial court made based on the evidence. There is no evidence of any understanding that Mo would receive additional shares for facilitating the loan agreements she solicited for Rhombus. Mo otherwise relies on her own trial testimony claiming that she did everything she could to ensure that Rhombus and CEEIF succeeded, and that she should be properly compensated for those efforts. And, as we have explained, the trial court did not believe her, and in fact found she had breached

her fiduciary duty to Rhombus and CEEIF. The trial court stated, “[t]he credible evidence does not establish that Mo is entitled to an increase of her ownership interest in either Rhombus or CEEIF as asserted \*\*\*.” The trial court believed the testimony and evidence provided by Rhombus and CEEIF, and its judgment against Mo is supported by the manifest weight of the evidence. Because we find that the trial court’s findings were supported by the evidence, it necessarily follows that its judgment against Mo’s counterclaim for a declaratory judgment was not an abuse of discretion.

¶ 57

#### CONCLUSION

¶ 58 For the foregoing reasons, we affirm the summary determination judgment in favor of Rhombus and CEEIF, affirm the breach of fiduciary duty and unjust enrichment judgment against Mo, reverse the breach of fiduciary duty and unjust enrichment judgment against Eastern, affirm the judgments against Mo on both her counterclaims, and affirm the denial of Mo’s postjudgment motion.

¶ 59 Affirmed in part; reversed in part.