Supreme Court Rules Borrowers Can Rescind Mortgages Under Truth in Lending Act

January 21, 2015 â€“ Last week, the US Supreme Court ruled that home mortgage borrowers can rescind their loans when lenders fail to make disclosures which are mandatory under the Truth in Lending Act (TILA). In order to exercise this right, borrowers have to notify lenders of their decision to rescind their loan within three years of the time the loan is issued.

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The case concerned a Minnesota couple, Larry and Cheryle Jesinoski, who had taken out a $611,000 mortgage on their home in 2007. Three years to the day after getting the loan, the Jesinoskis notified Bank of America that they were rescinding their loan due to the bankâ€™s failure to make certain statutory disclosures under TILA.

Bank of America sued to stop Jesinoskis and won; both at the federal district court and at the 8th Circuit Court of Appeals. The bank had claimed that a letter notifying them of the decision to rescind wasnâ€™t sufficient and that the law required borrowers to file suit within three years of taking out their loan.

But in the unanimous decision, the Supreme Court overturned the lower courts. Writing for the court Justice Antonin Scalia said, â€œSo long as the borrower notifies within three years after the transaction is consummated, his rescission is timely.â€• He went on to say, â€œThe statute does not also require him to sue within three years.â€•

The decision is a victory for consumers. When borrowers rescind a loan, they do have to repay the amount borrowed but that may be preferable to being stuck with a loan that includes expenses or terms which were not properly disclosed.
byJim Malmberg

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