

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 09-14871

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT APRIL 29, 2010 JOHN LEY CLERK

D. C. Docket No. 09-60002-CV-ASG

EQUITY INVESTMENTS PARTNERS, LP,

Plaintiff-Counter-
Defendant-Appellant,

versus

UNITED STATES OF AMERICA,
INTERNAL REVENUE SERVICE,

Defendant-Counter-
Claimant-Appellee,

RANDOLPH LENZ,

Defendant-Counter-Defendant
Appellant,

EQUITY INVESTMENT PARTNERS, LLC,

Counter-Defendant
Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(April 29, 2010)

Before BIRCH and MARCUS, Circuit Judges, and HODGES,* District Judge.

PER CURIAM:

Subsequent to the briefing in this case we decided the case of Equity Investment Partners, LP v. Lenz, 594 F.3d 1338 (11th Cir. 2010). Having requested and received supplemental briefing in this case from the parties, it is clear that the district court relied upon a legal principle that was rejected by our court in Lenz in granting summary judgment to the appellee. Accordingly, we REVERSE the judgment of the district court and REMAND the case for further consideration in light of Lenz.

Appellee's motion to reschedule oral argument from May 13, 2010 to May 11, 2010 is hereby DENIED as moot.

REVERSED AND REMANDED.

*Honorable Wm. Terrell Hodges, United States District Judge for the Middle District of Florida, sitting by designation.