

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

MUI UNG,

Plaintiff and Respondent,

v.

HENRY KOEHLER,

Defendant and Appellant.

A109532

(Alameda County
Super. Ct. No. RG04159916)

ORDER MODIFYING OPINION
AND DENYING REHEARING

[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on December 28, 2005, be modified as follows:

1. On page 9, at the end of the second full paragraph, add as footnote 5 the following footnote, which will require renumbering of all subsequent footnotes:

⁵ Plaintiff argues that we should not construe the term “lien” in section 882.030 to refer solely to the type of security interest enforceable by judicial foreclosure because such a limitation is inconsistent with the use of the same term in section 882.020, subdivision (a), in which “lien” is used more broadly. We decline to adopt plaintiff’s argument merely to avoid an inconsistency because, as explained above, the remaining language of section 882.030 indicates no intent to overturn the long-standing interpretation of “lien” as that term is used in section 2911 and, as explained below, adoption of plaintiff’s argument would render section 882.020 virtual surplusage.

There is no change in the judgment.

Respondent's petition for rehearing is denied.

Marchiano, P.J.

A109532
Ung v. Koehler