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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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BEACH ET UX. *v.* OCWEN FEDERAL BANK

CERTIORARI TO THE SUPREME COURT OF FLORIDA

No. 97–5310. Argued March 2, 1998– Decided April 21, 1998

Petitioners David and Linda Beach refinanced their Florida house in 1986 with a loan from Great Western Bank. In 1991, they stopped making mortgage payments, and in 1992 Great Western began this foreclosure proceeding. Respondent bank was thereafter substituted as the plaintiff. The Beaches acknowledged their default but raised affirmative defenses, alleging, *inter alia*, that the bank's failure to make disclosures required by the Truth in Lending Act gave them the right under 15 U. S. C. §1635 to rescind the mortgage agreement. The Florida trial court rejected that defense, holding, among other things, that any right to rescind had expired in 1989 under §1635(f), which provides that the right of rescission "shall expire" three years after the loan closes. The State's intermediate appellate court affirmed, as did the Florida Supreme Court. That court remarked that §1635(f)'s plain language evidences an unconditional congressional intent to limit the right of rescission to three years and distinguished its prior cases permitting a recoupment defense by ostensibly barred claims as involving statutes of limitation, not statutes extinguishing rights defensively asserted.

Held: A borrower may not assert the §1635 right to rescind as an affirmative defense in a collection action brought by the lender after §1635(f)'s 3-year period has run. Absent "the clearest congressional language" to the contrary, *Reiter* v. *Cooper*, 507 U. S. 258, 264, a defendant may raise a claim in recoupment, a "'defense arising out of some feature of the transaction upon which the plaintiff's action is grounded,'" *Rothensis* v. *Electric Storage Battery Co.*, 329 U. S. 296, 299 (quoting *Bull* v. *United States*, 295 U. S. 247, 262), even if the applicable statute of limitation would otherwise bar the claim as an independent cause of action. The 3-year period of §1635(f), however, is not a statute of limitation that governs only the institution of suit;

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instead, it operates, with the lapse of time, to extinguish the right of rescission. The section's uncompromising statement that the borrower's right "shall expire" with the running of time manifests a congressional intent to extinguish completely the right of rescission at the end of the 3-year period. The absence of a provision authorizing rescission as a defense stands in stark contrast to §1640(e), which expressly provides that the Act's 1-year limitation on actions for recovery of damages "does not bar . . . assert[ion of] a violation . . . in an action . . . brought more than one year from the date of the . . . violation as a matter of defense by recoupment." This quite different treatment of recoupment of damages and rescission in the nature of recoupment must be understood to reflect a deliberate intent on the part of Congress, see *Bates* v. *United States,* 522 U. S. __, __, and makes perfectly good sense. Since a statutory rescission right could cloud a bank's title on foreclosure, Congress may well have chosen to circumscribe that risk, while permitting recoupment of damages regardless of the date a collection action may be brought. Pp. 5-9.

692 So. 2d 146, affirmed.

SOUTER, J., delivered the opinion for a unanimous Court.