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IN THE COURT OF APPEALS
AT KNOXVILLE

FILED
March 30, 2000
Cecil Crowson, Jr.
Appellate Court Clerk

WILLIAM L. JENKINS)	KNOX COUNTY
)	E1999-01484-COA-R3-CV
Plaintiff-Appellant)	
)	
v.)	HON. SHARON BELL,
)	CHANCELLOR
RULE CONSTRUCTION, INCORPORATED)	
)	
Defendant-Appellee)	AFFIRMED AND REMANDED

LINDA J. HAMILTON MOWLES and R. LOY WALDROP, JR., OF KNOXVILLE FOR APPELLANT

MONTY L. WALTON OF KNOXVILLE FOR APPELLEE

O P I N I O N

Goddard, P.J.

This is a suit by Plaintiff William L. Jenkins seeking damages against Defendant Rule Construction, Incorporated, as a result of Rule Construction building a house for Mr. Jenkins. The complaint raises three theories--breach of contract, negligence, and misrepresentation. Rule Construction filed an answer and counter-claim seeking \$5000 it claims was still owed in connection with its fee for building the residence. The Chancellor found in favor of Rule Construction as to all theories and as to all claims of Mr. Jenkins, except one for \$9493, conceded by Rule Construction to be owed. From that amount she deducted the sum of the \$5000 she found was still owing Rule Construction under the contract and rendered judgment against Rule Construction in the amount of \$4493.

Mr. Jenkins accepted many of the adverse rulings by the Trial Court, but does raise three issues on appeal:

1. Whether the Trial Court's ruling that the Plaintiff Appellant was not entitled to recover on his excess basement cost claim is inconsistent with and unsupported by the clear evidence of breach of contract and misrepresentation on the part of Defendant Appellee, mandating, therefore, a reversal by this Honorable Court.
2. Whether the Trial Court's ruling that the Plaintiff Appellant was not entitled to recover on his slab cost claim is against the preponderance of the evidence establishing Defendant's negligent workmanship and the remedial nature of the concrete slab installed in Plaintiff's basement.
3. Whether the Trial Court erred in ruling that the Plaintiff Appellant was required to pay the Defendant Appellee's remaining fee considering the evidence of the cost overruns and the remedial repair expenses necessitated by the Defendant Appellee's negligent and inadequate workmanship.

The Chancellor entered a detailed and comprehensive memorandum opinion with which we concur and adopt as the opinion of this Court. See Appendix.

Before concluding, we would point out that notwithstanding the fact Mr. Jenkins knew a basement would be constructed rather than a crawlspace and the fact that the house would exceed the \$425,000 originally estimated, Mr. Jenkins paid Harold Boring, Rule Construction's superintendent on the job, bonuses totaling between \$4000 and \$5000. The first bonus was given in the summer of 1996 and the second in December of the same year. The last payment was long after the basement had been dug and the expenditures had far exceeded \$425,000.

For the foregoing reasons the judgment of the Chancellor is affirmed and the cause remanded for collection of the judgment and costs below. Costs of appeal are adjudged against Mr. Jenkins and his surety.

Houston M. Goddard, P.J.

CONCUR:

Herschel P. Franks, J.

D. Michael Swiney, J.