

IN THE COURT OF APPEALS  
AT KNOXVILLE

**FILED**  
  
**July 30, 1998**  
  
**Cecil Crowson, Jr.**  
**Appellate Court Clerk**

VERMAX INCORPORATED	)	SEVIER COUNTY
	)	03A01-9710-CH-000474
Plaintiff-Appellee	)	
	)	
	)	
v.	)	HON. C. S. RAINWATER, JR.,
	)	CHANCELLOR
	)	
MCH PARTNERS,	)	
JIMMY R. REAGAN, d/b/a	)	
PRECISION CONSTRUCTION COMPANY,	)	
HOME FEDERAL SAVINGS & LOAN	)	
ASSOCIATION OF UPPER EAST	)	
TENNESSEE and CAROLYN H. MINNIS	)	
	)	
Defendants-Appellants	)	AFFIRMED AND REMANDED

STEVEN E. MARSHALL OF SEVIERVILLE FOR JIMMY R. REAGAN, d/b/a  
PRECISION CONSTRUCTION COMPANY

DAVID N. GARST OF KNOXVILLE FOR VERMAX INCORPORATED

O P I N I O N

Goddard, P.J.

This is a suit by Vermax, Inc., against Precision Construction Company and Jimmy R. Reagan and Howard Sexton,<sup>1</sup> its general partners. The complaint against other defendants was dismissed below and is not the subject of this appeal.

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<sup>1</sup> Mr. Sexton was made a party defendant by an amendment to the original complaint.

After an evidentiary hearing the Chancellor rendered judgment in favor of Vermax against Precision Construction Company and the general partners in the amount of \$45,995.79, plus interest at the rate of ten percent per annum from July 26, 1995, until the date of trial.

Precision Construction Company was the general contractor in connection with the construction of a Hampton Inn in Pigeon Forge. Vermax was a sub-contractor which furnished synthetic marble products for use in construction of the Inn and claimed a balance owing on the contract in the amount awarded by the Chancellor.

Precision Construction Company and the general partners appeal, raising a single issue which we re-state as follows:

Did the evidence preponderate against the Chancellor's finding that the Defendants were not entitled to a set-off for the actual expenses incurred due to the Plaintiff's delay and/or failure to properly perform the contract?

Our reading of the record persuades us this is an appropriate case for affirmance under Rule 10(a) of this Court.

The judgment of the Trial Court is accordingly affirmed and the cause remanded for collection of the judgment and costs

below. Costs of appeal are adjudged against Precision  
Construction Company and the general partners.

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Houston M. Goddard, P.J.

CONCUR:

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Herschel P. Franks, J.

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Don T. McMurray, J.