

Plaintiff asserts three causes of action: (1) Breach of Contract, (2) Breach of Contract Accompanied by a Fraudulent Act and (3) Unjust Enrichment.

I.

The elements of Breach of Contract Accompanied by a Fraudulent Act are: (1) Breach of contract, (2) Fraudulent intent relating to the breach of the contract and not merely to its making and (3) A fraudulent act accompanying the breach. *Floyd v. Country Squire Mobiles Homes, Inc.* 287 S.C. 51, 336 S.E.2d 502 (1985).

Plaintiff failed to establish the elements necessary for this cause of action. Therefore, this claim will be dismissed with prejudice.

II.

Plaintiff also asserts a claim for Unjust Enrichment. The elements of unjust enrichment are: (1) A benefit conferred by the plaintiff upon the defendant, (2) Realization of that benefit by the defendant and (3) Retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value. *Myrtle Beach Hospital, Inc. v. City of Myrtle Beach*, 341 S.C. 1, 532 S.E.2d 868 (2000). Further, unjust enrichment is an equitable remedy. When there is an adequate remedy at law, equitable relief is typically not appropriate. *Barrett v. Miller*, 283 S.C. 262, 321 S.E.2d 198 (1984).

Plaintiff asserts a claim for Breach of Contract. Therefore, plaintiff has an adequate remedy at law, and is not entitled to the equitable remedy of unjust enrichment. Accordingly, this claim is dismissed with prejudice.

III.

Plaintiff's primary claim is for Breach of Contract. To establish a claim for Breach of Contract, the plaintiff must prove (1) The existence of the contract (2) its Breach and (3) The damages caused by such a breach. Branche Builders, Inc. v. Coggins, 386 S.C. 43, 686 S.E.2d 200 (2009), citing Fuller v. Eastern Fire & Casualty Insurance Company, 240 S.C. 75, 124 S.E.2d 602 (1962).

Plaintiff has the burden of proving this cause of action by a preponderance of the evidence. A preponderance of the evidence is defined as the greater weight of the evidence. It is evidence which, as a whole, shows that the fact sought to be proved is more likely true than not true.

Metropolitan Stevedore Co. v. Rambo, 521 U.S. 121, 117 S. Ct. 1953, 138 L. Ed. 2d 327 (1997).

In this case, plaintiff introduced numerous exhibits, many of which show alleged defective workmanship or defective products. Plaintiff did not present testimony from a person qualified as an expert in the field of electrical, plumbing or tile work. Plaintiff acknowledged multiple times during the testimony that he was not a contractor.

It is clear to the court that there were at least some problems with defendants' workmanship, as evinced by burnt wires within the stud wall. However, plaintiff presented no testimony that credibly established the defective workmanship and/or the cost of repairing the defective work.

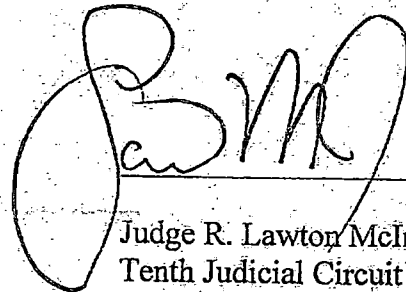
It is also clear that the original contract price was for 12,000 dollars. See plaintiff exhibit 1.

However, the scope of the project changed during the course of the project, as established by plaintiff's exhibits submitted.

Accordingly, the court is unable to differentiate what monies paid by plaintiff represented changes in the scope of the project or repairs to the defective or unfinished workmanship.

Accordingly, plaintiff has failed his burden of proof. Therefore, the claim for breach of contract is denied.

IT IS SO ORDERED this 7 day of June, 2022.



Judge R. Lawton McIntosh
Tenth Judicial Circuit

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