

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY) CASE NO.: 2018-CP-08-2423

200 RIVER LANDING DRIVE PHASE I)
CONDOMINIUM ASSOCIATION, INC.)
and STEVEN GARCIA and JANIS)
ZOMBER, individually and on behalf of all)
others similarly situated,)

Plaintiffs,)

vs.)

WATKINS SERVICES, INC., FIRST)
EXTERIORS, LLC, GETULIO PERELA)
CHAGAS, FBM CONSTRUCTION, LLC)
d/b/a FERNANDO MONTEIRO, and)
JOHN DOE SUBCONTRACTORS OR)
MATERIAL SUPPLIERS 12 – 50,)

Defendants.)

JUDGMENT

This matter was before the Court on Plaintiffs’ Motion for a Damages Hearing as to Getulio Perela Chagas (“Chagas”). A hearing was held Wednesday, October 18, 2023 beginning at 10:30 a.m. in Courtroom E of the Berkeley County Courthouse. Present were Jesse A. Kirchner, Esq., counsel for the Plaintiffs and Christopher Mingledorff, Esq., counsel for Chagas.

After reviewing the record before the Court and hearing the evidence and testimony presented, the Court makes the following findings of fact and conclusions of law:

1. On May 7, 2020, this Court entered an Entry of Default as to Getulio Perela Chagas.
2. On January 5, 2022 Chagas filed a Motion to Set Aside Default.

3. A hearing on the Motion to Set Aside Default was held on March 21, 2022 before the Honorable Jennifer B. McCoy. After careful consideration, Chagas' motion was denied based on the failure of Chagas to establish good cause under Rule 55(c) of the South Carolina Rules of Civil Procedure.

4. I find that proper notice of this damages hearing was provided to counsel for Chagas pursuant to Rule 55(b)(2) SCRPC.

5. By virtue of the default, Chagas has admitted the allegations of the Plaintiffs' Second Amended Complaint. Specifically, Chagas has admitted that, as a subcontractor to ACR Construction of SC, Inc., Chagas performed various work on the buildings comprising the 200 River Landing Drive Phase I Condominium Association including, but not limited to, installation of windows and related flashings, handrails, guardrails and columns, fire stops, metal awnings, deck sheathing, balcony ceilings, balcony waterproofing and related flashings. See, Plaintiffs' Second Amended Complaint, ¶ 24.

6. Chagas further admitted that damage to the buildings at 200 River Landing Drive Phase I was the direct and proximate result of defects, deficiencies, and omissions in his work. See, Plaintiffs' Second Amended Complaint, ¶ 48.

7. Chagas further admitted that he is jointly and severally liable to the Plaintiffs for all actual, direct, indirect, special and consequential damages. See, Plaintiffs' Second Amended Complaint, "Wherefore" paragraph.

8. Plaintiffs presented two witnesses who were qualified as experts by the Court. Forrest R. Lott, FAIA of Lott & Barber was qualified as an expert in architecture, design and construction and John DeWitte of Cooper River Contracting, LLC was qualified as an expert in construction and cost estimating.

9. Forrest Lott testified concerning his forensic investigation of the buildings comprising 200 River Landing Drive Phase I and their need for extensive repairs. Architect Lott testified that the scope of work of Chagas contributed to the substantial and significant damage at 200 River Landing Drive Phase I and that the damage to the structure of the buildings was indivisible.

10. Further, Architect Lott testified that his recommended scope of repair (which was entered into evidence and marked as Exhibit 1) was reasonable and necessary to bring the buildings to a safe and functional condition. Architect Lott affirmed that all of his opinions were given to a reasonable degree of architectural and professional certainty.

11. John DeWitte testified concerning his extensive involvement in the destructive testing and investigation of the buildings comprising 200 River Landing Drive Phase I as well as his company's involvement with temporary emergency repairs, including but not limited to, shoring balconies that were deemed structurally unsound.

12. Mr. DeWitte further testified as to his methodology of providing cost estimates for repair projects like the one associated with 200 River Landing Drive Phase I and his history of repairing similarly situated projects. Mr. DeWitte confirmed that his repair estimate for this project (which was entered into evidence and marked as Exhibit 2) is based upon Architect Lott's scope of repair and totals \$37,939,523.00. Mr. DeWitte further testified based on his experience and knowledge repairing other similarly situated projects that he estimates the repairs will take two and a half years to complete. Mr. DeWitte confirmed that all his opinions were given to a reasonable degree of professional certainty.

13. I find, based upon the admissions of Chagas and the evidence presented, that Chagas' negligence and gross negligence contributed to the indivisible damages to the buildings comprising 200 River Landing Drive Phase I and that Chagas is jointly and severally liable to the Plaintiffs for those damages.

14. I find that a fair measure of the Plaintiffs' damages is the cost to repair the buildings, which totals \$37,939,523.00 and award judgment in favor of 200 River Landing Drive Phase I Condominium Association, Inc. against Chagas for said amount.

15. Plaintiffs' counsel represented to the Court that Plaintiffs have collected \$15,460,000.00 by way of settlements to date from other defendants.

16. I find that, as a joint tortfeasor, Chagas is entitled to a set-off for the settlement funds actually collected, resulting in a net judgment of \$22,479,523.00.

NOW, THEREFORE, JUDGMENT in the amount of Twenty-Two Million Four Hundred Seventy-Nine Thousand Five Hundred Twenty-Three Dollars and No/100 (\$22,479,523.00) is HEREBY AWARDED against Getulio Perela Chagas in favor of 200 River Landing Drive Phase I Condominium Association, Inc.

The undersigned shall retain jurisdiction of this matter for the purpose of supplemental proceedings and any other matters related to this Judgment.

IT IS SO ORDERED!

[judicial signature to follow]



Berkeley Common Pleas

Case Caption: 200 River Landing Drive Phase I Condominium Association, Inc ,
plaintiff, et al VS Trammell Crow Company , defendant, et al
Case Number: 2018CP0802423
Type: Order/Damages

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766