

APPLICABLE LAW

South Carolina Code Ann. §40-59-30(b) provides as follows:

Notwithstanding Section 29-5-10, or another provision of law, a person or firm who first has not procured a license or registered with the commission and is required to do so by law may not file a mechanics' lien or bring an action at law or in equity to enforce the provisions of a contract for residential building or residential specialty contracting which the person or firm entered into in violation of this chapter.

DISCUSSION

Previous South Carolina case law held that a Residential Homebuilder could not sue to recover under a building contract if he did not have a license at the time contract was made. Duckworth v. Cameron, 244 S.E.2d. 217, 270 S.C. 647 (1978). The Duckworth case was decided in 1978 and S.C. Code §40-59-130 at that time provided:

“(n)o residential home builder who does not have the license required herein may bring any action either at law or in equity to enforce the provisions of any contract for residential home building which he entered into in violation of this chapter.”


In addition to Duckworth, Roberta, Inc. v. Trust, 274 S.C. 53 260 S.E.2d. 818 (1979) was decided by the South Carolina Supreme Court one year later and concluded that an unlicensed residential homebuilder could not bring an action to recover amounts paid to third-parties for labor and materials furnished in the performance of the contract.

South Carolina Code §40-59-130 was revised in 2002 and again in 2009 to its current form. The Plaintiff argues that the amendment to the statute allows a contractor to pursue recovering for monies due under a building contract if the license is obtained after the work is performed.

CONCLUSION

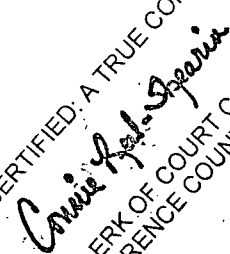
The Plaintiff did not have a license at the time the contract was entered nor any time during the course of performance and only obtained a license after he sought to collect under the contract. Since the Plaintiff is an unlicensed builder, he cannot "bring an action at law or in equity to enforce the provisions of a contract for residential building or residential specialty contracting." Based on the foregoing, the Defendants' Motion is Granted and the Plaintiff's Complaint is Dismissed.

AND IT IS SO ORDERED.


HONORABLE WILLIAMS H. SEALS
CIRCUIT COURT JUDGE

October , 2016
Marion, South Carolina

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C.C.P. & G.S.
FLORENCE COUNTY, SC

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