

ALABAMA JUDICIAL DATA CENTER
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CERTIFICATE OF JUDGMENT

CV 2015 900033.00

HEWITT L CONWILL

IN THE CIRCUIT COURT OF SHELBY COUNTY


SHIELD PROPERTIES, INC. V. JULIE LYLE

PLAINTIFF'S ATTORNEY:

CENTENO DOUGLAS JOSEPH
2019 3RD AVE N
BIRMINGHAM AL 35203

I, MARY H. HARRIS, CLERK OF THE ABOVE NAMED COURT HEREBY
CERTIFY THAT ON 12/27/2017 PLAINTIFF, SHIELD PROPERTIES, INC RECOVERED
OF DEFENDANT IN SAID COURT A JUDGMENT WITHOUT WAIVER OF EXEMPTIONS FOR THE
SUM OF \$43,000.00 DOLLARS PLUS \$668.33 DOLLARS COURT COSTS, AND
THAT THE PLAINTIFF'S ATTORNEY(S) OF RECORD WAS:
CENTENO DOUGLAS JOSEPH

GIVEN UNDER MY HAND THIS DATE 12/28/2017

CLERK: MARY H. HARRIS
P.O. BOX 1810
COLUMBIANA AL 35051
(205) 669-3760WEBSITE: [HTTP://18JC.ALACOURT.GOV](http://18JC.ALACOURT.GOV)OPERATOR: STP
PREPARED: 12/28/2017
20180110000010780 1/5 \$27.00
Shelby Cnty Judge of Probate. AL
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DEFENDANT

PARTY'S ATTORNEY:

LYLE JULIE
113 FOX VALLEY DRIVE

MAYLENE, AL 35114-0000

LEO ROCCO J.
3250 INDEPENDENCE DR.

BIRMINGHAM, AL 35209-4141



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CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA
MARY HARRIS, CLERK

IN THE CIRCUIT COURT OF SHELBY COUNTY

SHIELD PROPERTIES, INC.,)

Plaintiff,)

vs.)

Case Number: 15-CV-900033

JULIE LYLE.)

Defendant.)

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Shelby Cnty Judge of Probate, AL
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FINAL JUDGMENT

This matter came for Trial¹, without a jury, on November 28, 2017 and November 29, 2017. Shield Properties, Inc. (hereinafter "Plaintiff") was represented by Douglas Centeno, Esq. and Julie Lyle (hereinafter "Defendant") was represented by Rocco Leo, Esq. The court heard testimony *ore tenus* from Jake Schillaci, Julie Lyle, Darren Scotch, Nate Acton and George Ellis. The Court received a number of exhibits from both the Plaintiff and Defendant. On November 29, 2017, the Court granted Plaintiff's Motion for Judgment as a Matter of Law on Counts 2, 3 and 4 of the Counterclaim and Defendant's request for mental anguish damages. The claims that remain in this case involve breach of contract claims by and against each other and a suit to enforce and perfect a mechanic's lien against the Defendant. Based upon the testimony and documentary evidence presented, the court finds and concludes as follows:

1. The Plaintiff and Defendant entered a contract for the Plaintiff to construct a home on Defendant's lot pursuant to building plans drawn by Nolan Design at the request of the Defendant (hereinafter the "Contract").
2. The Contract required the Plaintiff to complete the construction work within a reasonable time, except for delays associated with adverse weather, the owner's failure to timely select finishes, the owner's direction to perform change order work, and problems with licensing or permits.

¹ This case was previously referred to arbitration. By consent of the parties, it returned after mediation for resolution by the court without a jury.

3. The Contract also provided that the Plaintiff would bill the Defendant for work as it progressed and that Defendant would pay Plaintiff within a reasonable time after receipt of the invoice. The contract also provided for the payment of interest at 2.5% per month on the unpaid invoices and for the recovery of a reasonable attorney's fee to the prevailing party, if litigation was filed to enforce the Contract.
4. The Contract also prohibited the Defendant from moving into the house or obtaining a Building Permit to complete the work, if the Plaintiff was not paid in full.
5. Defendant planned to fund the construction work of the Plaintiff with cash on hand.
6. There were three (3) problems that slowed the completion of the house. *First*, in late August of 2013, the Plaintiff learned that they were not going to be able to build the house as designed (slab on grade), but would have to build the house over a crawlspace. As a result, Noland Design revised the foundation plan. *Second*, the City of Alabaster advised that the house needed to have a fire sprinkler system installed in December of 2013, thereby causing work to cease. Plaintiff negotiated with the City on the Defendant's behalf for approximately one (1) month. On January 21, 2014 Defendant sent a letter accepting responsibility for the lack of a fire sprinkler system in the home, and shortly thereafter work resumed. *Third*, payment was not timely made to the Plaintiff starting in March of 2014, as is described below.
7. In January of 2014 and unbeknownst to the Plaintiff, Defendant entered into a contract with Don's Carpet One to provide the cabinets, flooring and tile. At this time, Defendant also entered into a contract to supply the countertops with Stone Concepts. All of this work was previously included within Plaintiff's scope of work.
8. Because of the selections made, Defendant was over budget on the cabinets, flooring, tile and countertops. As a result of being over budget, Defendant did not have sufficient funds to pay Plaintiff to complete the work.
9. Defendant made her last payment to Plaintiff in early February of 2014, for work performed in January.
10. The Defendant ran out of money in March of 2014. The evidence was undisputed that Defendant breached the Contract in March of 2014 when the Defendant failed to pay the March 12, 2014 invoice. The Defendant also failed to pay the May 27, 2014 and August 4, 2014 invoices.
11. Even though the Plaintiff was not getting paid, they continued to work towards completion of the home, albeit at a slower pace.



12. On July 17, 2014, Plaintiff called for a final inspection of the house. The purpose of the final inspection was to quantify the work needed to be performed to get a Certificate of Occupancy (hereinafter "CO"). Mr. George Ellis, City of Alabaster Building Inspector, identified fourteen (14) items of work that needed to be completed to get a CO. The house was substantially complete at this time, although without a CO it was not supposed to be occupied.
13. At this point a stalemate existed, because Plaintiff refused to do additional work until they were paid and Defendant refused to pay Plaintiff for the work already performed.
14. Rather than pay Plaintiff for the work performed, Defendant attempted to declare Plaintiff in default of the Contract and complete the remaining work on her own. At the time Defendant alleged a default against Plaintiff, however, Defendant was in default of her obligations under the Contract.
15. In August of 2014, Defendant moved into the house prior to a CO and before Plaintiff was paid in full. This also was a breach of the Contract and a violation of Alabaster's Building Code.
16. In October of 2014, Defendant obtained a Building Permit to complete the work before Plaintiff was paid in full. This also was a breach of the Contract.
17. In the later part of 2014 and early 2015, Defendant self-performed some of the work needed for a CO and hired some contractors to help her. Some of the work performed by Defendant and her contractors went beyond what was required by the building plans, the Contract or the Building Code.
18. On June 3, 2015, the City of Alabaster issued a CO. Even though the CO was issued, there were still some items that remained incomplete or needing repair.
19. At Trial, Plaintiff provided a detailed breakdown of the contract, items that should be deducted because they were not performed and credits that should inure to the Defendant to repair/complete the work. According the Plaintiff's Exhibit 27A, Plaintiff claimed to be entitled to \$40,569.43, after credits were applied. The work identified in PX 27A was reasonable in amount and necessary to complete the house, although it omitted a few items of work.
20. At Trial, Defendant did not provide the court with any detailed breakdown of the contract and testified that she did not know what her damages were.
21. The Court finds that the Plaintiff failed to include four (4) items of work in its breakdown (PX 27A) that should inure to the Defendant's benefit: (a) the fake beams in the kitchen; (b) the two mantles; (c) the driveway; and (d) the landscaping. Plaintiff failed to install the fake beams in the Kitchen and the




mantles selected by Defendant. The Bid Proposal attached to the Contract provided that Plaintiff budgeted \$1,500 for the fake beams and \$1,500 for the mantles. Also, Plaintiff failed to complete the installation of the driveway and the landscaping. According to the Bid Proposal attached to the Contract, Plaintiff planned to spend \$4,887 for the driveway, but actually spent around \$4,000 to partially complete the driveway. This \$887 should inure to the Defendant's benefit. According to the Bid Proposal attached to the Contract, Plaintiff planned to spend \$2,500 for the landscaping, but actually spent around \$500 to partially complete the landscaping. This \$2,000 should inure to the Defendant's benefit.


22. The Defendant testified that the Plaintiff's work was defective in many ways but was unsure of the extent of her damages. The experts called, by the Defendant, found fault with the Plaintiff's work, but often failed to establish that the work breached the contract between the Plaintiff and Defendant.
23. The Court finds that the Defendant owes the Plaintiff the sum of \$28,000.00 after all appropriate credits have been given to the Defendant.
24. The Court further finds that a reasonable attorney's fee, in this matter, is \$15,000.00 which is awarded to the Plaintiff's Attorney.
25. Therefore, the Plaintiff shall recover the sum of \$ 43,000.00 from the Defendant, plus court costs are taxed against the Defendant.
26. Plaintiff complied with the Alabama Mechanic's Lien statute in timely filing its Verified Claim of Lien and this lawsuit to perfect that Lien. Alabama Code §35-11-210 et seq. (1975).
27. Therefore, Plaintiff is hereby awarded a mechanic's lien to secure the payment of the Judgment awarded herein on the following described real property:

Lot 11, according to the Amended Map of Fox Valley Subdivision, as recorded in Map Book 34, Page 8, in the Office of the Judge of Probate of Shelby County, Alabama.

28. All claims not adjudicated previously or herein are hereby dismissed with prejudice.

DONE and ORDERED, this the 27th day of December, 2017.


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H. L. Conwill, Circuit Judge