

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

WESLEY F. RAUCH and LAUREN A. RAUCH,	:	NO. 13 – 00,997
Plaintiffs	:	
	:	CIVIL ACTION - LAW
vs.	:	
	:	
ARCON GROUP, INC.,	:	
Defendant	:	Non-jury Trial

OPINION AND VERDICT

In their Complaint, Plaintiffs sought an award of damages and attorney’s fees for breach of contract, breach of warranties and violations of the Unfair Trade Practices and Consumer Protection Law in connection with a construction contract entered by the parties on April 20, 2012. As a result of Defendant’s failure to participate in the litigation, a judgment in favor of Plaintiff on these claims was entered on November 11, 2014. A trial on damages only was held on March 2, 2015. The matter is now ripe for decision and the Court enters the following:

FINDINGS OF FACT

1. By Construction Contract dated April 12, 2012, Defendant agreed to “furnish all labor, materials equipment, supervision, and contract administration to complete in a good and workmanlike manner” a custom single family home and a garage, in exchange for payments totaling \$270,177.00.
2. The contract provided for a substantial completion date of October 1, 2012.
3. As of October 1, 2012, Plaintiffs had paid to Defendant sums totaling \$194,000.00.
4. As of October 1, 2012, the house was not completed; no garage was built.
5. In order to complete the house and garage, Plaintiffs incurred expenses totaling \$120,471.96.
6. Plaintiffs expended \$2,350.00 in attorney’s fees to bring the instant collection suit.
7. As a result of the excess monies expended, Plaintiffs paid their taxes late and incurred penalties and interest totaling \$555.74.

DISCUSSION

As judgment in favor of Plaintiffs on all claims has been entered previously, discussion is limited to the proper measure of damages. Since Plaintiffs contracted for a house and garage at a price of \$270,177.00, they are entitled to an award such that they will have that house and garage and have spent only \$270,177.00. In order to effectuate that result, Plaintiffs are entitled to recover what they spent to complete the house, less the remaining contract payments. That is, \$120,471.96 less \$76,177.00 (the remaining balance due under the contract), or \$44,294.96. As the contract provides for an award of attorney's fees for collection efforts, Plaintiffs are also entitled to recover their attorney's fees of \$2,350.00. With respect to the consequential damages of \$555.74, however, although the interest and penalties incurred may have been an indirect result of Plaintiffs having to spend more than they had bargained for to rectify the Defendant's breaches, it cannot be said that such damages were reasonably foreseeable, that is, that such a loss "ordinarily follows the breach of such a contract in the usual course of events". See R. I. Lampus Co. v. Neville Cement Products Corporation, 378 A.2d 288 (Pa. 1977). Plaintiffs are thus not entitled to recover this sum.

With respect to the UTPCPL¹ claim, as Defendant agreed in writing to perform the contract with workmanship of good quality but it was shown that he did not, a violation of Section 2(4)(xvi) is established. See Commonwealth v. Burns, 663 A.2d (Pa. Commw. 1995). As Defendant's conduct strikes the court as somewhat egregious, the award of damages and attorney's fees will be doubled as a sanction.

Accordingly, the Court draws the following:

CONCLUSIONS OF LAW

1. Plaintiffs damages for breach of contract are \$44,294.96.
2. Plaintiffs are entitled to collect attorney's fees of \$2,350.00.
3. Double damages under the UTPCPL are appropriate in these circumstances.

¹ 73 P.S. Section 201-2(4)(xvi).

VERDICT

AND NOW, this 2nd day of March 2015, for the foregoing reasons, judgment is hereby entered in favor of Plaintiffs and against Defendant in the amount of \$93,289.92.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Bret Southard, Esq.
Arcon Group, Inc., P.O. Box 242, Hummelstown, PA 17036
Gary Weber, Esq.
Hon. Dudley Anderson