

FILED
11:59 AM
Swain Co.
Feb 17, 2011
M. Jones

Alarka

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

COUNTY OF SWAIN

SUPERIOR COURT DIVISION

08-CVS-36

ALARKA CREEK PROPERTIES
HOMEOWNERS ASSOCIATION, INC.,

Plaintiff,

vs.

CANE CREEK DEVELOPMENT
CORPORATION,

Defendant.

VERDICT SHEET

Andrew Sullivan

2/17/2011

CLAIM ONE (EXPRESS WARRANTY)

1. Did the Defendant expressly warrant to the Plaintiff that the Alarka Creek Properties roads would conform to a promise or representation of fact or description?

Yes No

2. Did the Defendant breach the express warranty made to the Plaintiff?

Yes No

(You will answer this issue only if you have answered the First (1st) Issue "Yes" in favor of the Plaintiff.)

3. What amount of money damages is Plaintiff entitled to recover from Defendant for breach of express warranty?

\$ 2,400,000.00

(You will answer this issue only if you have answered the Second (2nd) Issue "Yes" in favor of the Plaintiff.)

CLAIM TWO (IMPLIED WARRANTY)

4. Was an implied warranty created between Plaintiff and Defendant that the Alarka Creek Properties paved roads would meet the prevailing standard for workmanlike quality?

Yes No

5. Did the Defendant breach the implied warranty?

Yes No

(You will answer this issue only if you have answered the Fourth (4th) Issue "Yes" in favor of the Plaintiff.)

6. What amount of money damages is Plaintiff entitled to recover from Defendant for breach of implied warranty?

\$ 1

(You will answer this issue only if you have answered the Fifth (5th) Issue "Yes" in favor of the Plaintiff.)

CLAIM THREE (NEGLIGENCE)

7. Was the Plaintiff damaged by the negligence of the Defendant?

Yes No

8. Did the Plaintiff by its own negligence contribute to its damage?

Yes No

(You will answer this issue only if you have answered the Seventh (7th) Issue "Yes" in favor of the Plaintiff.)

9. What amount of damages, if any, is Plaintiff entitled to recover as a result of Defendant's negligence?

\$ 1

(You will answer this issue only if you have answered the Seventh (7th) Issue "Yes" in favor of the Plaintiff and the Eighth (8th) Issue "No" in favor of the Plaintiff.)

CLAIM FOUR (BREACH OF CONTRACT)

10. Did Plaintiff and Defendant enter into a contract?

Yes No

11. Did Defendant breach the contract?

Yes No

(You will answer this issue only if you have answered the Tenth (10th) Issue "Yes" in favor of the Plaintiff.)

12. What amount is Plaintiff entitled to recover from Defendant for breach of contract?

\$ 1

(You will answer this issue only if you have answered the Eleventh (11th) Issue "Yes" in favor of the Plaintiff.)

CLAIM FIVE (NEGLIGENT MISREPRESENTATION)

13. Was the Plaintiff financially damaged by a negligent misrepresentation of the Defendant?

Yes No

14. What amount is the Plaintiff entitled to recover from the Defendant as damages for negligent misrepresentation?

\$ 1 _____

(You will answer this issue only if you have answered the Thirteenth (13th) Issue "Yes" in favor of the Plaintiff.)

CLAIM SIX (N.C.G.S. § 75.1-1)

15. Did Defendant do at least one of the following:

i. Advertise the Alarka Creek Properties roads as "State approved paved roads" without intending to construct the paved roads accordingly.

Yes No

ii. Advertise the Alarka Creek Properties paved roads as "engineered" without intending to construct the paved roads in accordance with an engineer's specifications.

Yes No

iii. Advertise the Alarka Creek Properties roads as "put in by environmental specifications and approved by the state environmental board" without intending to construct the paved roads and/or slopes in accordance with the approved erosion control plan.

Yes No

iv. Represent that the Alarka Creek Properties roads were of a certain quality and not intend to build or build roads of that quality.

Yes No

v. Submit road plans to the North Carolina Department of Environment and Natural Resources for approval and then knowingly fail to construct the roads and/or slopes in accordance with the approved plans.

Yes No

vi. Knowingly transfer defectively constructed roads and/or slopes to Plaintiff.

Yes _____ No

vii. Knowingly transfer roads and/or slopes to Plaintiff that were not constructed in accordance with the approved erosion control plan.

Yes No _____

viii. Represent that it would transfer the Alarka Creek Properties roads to Plaintiff in "good condition" and knowingly fail to do so.

Yes _____ No

ix. Knowingly fail to construct roads and/or slopes in accordance with local standards and practices in Swain County.

Yes _____ No

16. Was Defendant's conduct in or did it affect commerce?

Yes No _____

(You will answer this issue only if you have answered "Yes" in favor of the Plaintiff as to at least one of the elements of the Fifteenth (15th) Issue.)

17. Was Defendant's conduct a proximate cause of Plaintiff's injury?

Yes No _____

(You will answer this issue only if you have answered the Sixteenth (16th) Issue "Yes" in favor of the Plaintiff.)

18. In what amount, if any, has Plaintiff been injured?

\$ 1

(You will answer this issue only if you have answered the Seventeenth (17th) Issue "Yes" in favor of the Plaintiff.)

CLAIM SEVEN (SEDIMENTATION POLLUTION CONTROL ACT)

19. Did Defendant violate the Sedimentation Pollution Control Act causing damage to Plaintiff's property?

Yes No

20. What amount of damages, if any, is Plaintiff entitled to recover as a result of Defendant's violation?

\$ 1

(You will answer this issue only if you have answered the Nineteenth (19th) Issue "Yes" in favor of the Plaintiff.)