Granted Appeal Summary

Case
JOSHUA M. PAYNE, ET AL. v. DANVILLE DOCTORS BUILDING
(Record Number 201235)

From
The Circuit Court of the City of Danville; C.H. Perdue, Jr., Judge.

Counsel
Philip B. Baker (Sanzone & Baker, L.L.P.) for appellants.

James A. L. Daniel (Daniel, Medley & Kirby, P.C.) for appellee.

Assignments of Error

I. The Trial Court erred in finding Seller DDB met its burden of proving that Buyer Payne breached the Purchase Agreement of October 9, 2017, when DDB failed to provide Notice of Default and Cure pursuant to the Purchase Agreement.

II. The Trial Court erred in not finding that Buyer Payne had the sole and absolute discretion, pursuant to Purchase Agreement paragraphs 6 and 7, to determine if Seller DDB had not complied with Sellers representations and warranties of the hazardous materials paragraph 7F provision.

III. The Trial Court erred in not finding that Seller DDB and Buyer Payne voluntarily terminated the Purchase Agreement contract prior to the Tuesday, January 9, 2018, closing date, and time.

IV. The Trial Court erred in computation of damages after undisputed evidence established the presence of the hazardous material asbestos and its remediation costs.

V. The Trial Court erred in awarding attorney's fees based on the paragraphs 13 A and C provisions of the October 8, 2017, Agreement, which required a written Notice of Default and Opportunity to Cure; no 10 day Default Notice was provided prior to the parties Agreement to terminate the contract.

VI. The Trial Court erred in its November 5, 2018, Order denying Defendant Chauhan's Demurrer as to whether Ajit Chauhan was a proper party.

VII. The Trial Court erred in awarding damages for "specific performance" when the Agreement did not strike the paragraph 13 provisions prohibiting specific enforcement after Sellers amendments, and in the absence of any Notice of such attempted remedy, before the Agreement lapsed.