

SUPREME COURT OF RHODE ISLAND

South County Post & Beam, Inc. v. Brian T. McMahon et al.

116 A.3d 204 (R.I. 2015) · No. Nos. 2014-24-Appeal and 2014-25-Appeal (WC 11-339) · Decided June 5, 2015

SUMMARY

The Rhode Island Supreme Court reviewed a dispute between property owners and a subcontractor over unpaid construction work. The Court affirmed a judgment awarding the subcontractor \$41,549.45 under unjust enrichment and quantum meruit principles, holding that the absence of an adequate remedy at law was not an independent bar to recovery. It vacated and remanded the order taxing the subcontractor's expert-witness fee as a recoverable cost.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Chief Justice Paul A. Suttell; Paul A. Suttell, C.J.; Maureen McKenna Goldberg, J.; Robert G. Flaherty, J.; William P. Robinson III, J.
JURISDICTION	Rhode Island
DECIDED	June 5, 2015
DOCKET	Nos. 2014-24-Appeal and 2014-25-Appeal (WC 11-339)
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants appealed from a Superior Court judgment awarding plaintiff \$41,549.45 on an unjust-enrichment claim and from a posttrial order awarding plaintiff taxable costs, including an expert-witness fee. The Rhode Island Supreme Court consolidated the appeals and decided them summarily after directing the parties to show cause.
STANDARD OF REVIEW	Bench-trial factual findings are reviewed for clear error or legal error, with substantial deference to credibility determinations; questions of law, including statutory interpretation, are reviewed de novo.
PRECEDENTIAL VALUE	Published Rhode Island Supreme Court opinion; precedential.
PARTIES	Brian T. McMahon, Karen McMahon v. South County Post & Beam, Inc.

TOPICS

[unjust enrichment](#)[quantum meruit](#)[construction law](#)[remedies](#)[appellate procedure](#)

PRACTICE AREAS

construction law

contracts

remedies

appellate procedure

QUESTIONS PRESENTED

1. Whether the Superior Court properly awarded damages for unjust enrichment when the plaintiff had a contractual relationship with the general contractor and had not shown the absence of an adequate remedy at law.
2. Whether the Superior Court properly included the plaintiff's expert-witness fee as a taxable cost.

HOLDINGS

1. The absence of an adequate remedy at law is not a required element of a standalone claim for unjust enrichment or quantum meruit seeking monetary compensation. It is merely one factor in the fact-specific balancing of equities under the third element of the claim.
2. The expert-witness fee was not properly taxable as a cost because Rhode Island General Laws § 9-17-22 specifically prohibits expert fees as costs except as provided by the Rules of Evidence.

KEY QUOTATIONS

“Accordingly, as unjust enrichment and quantum meruit are treated as standalone causes of action, the presence or absence of an adequate remedy at law is simply one of the factors considered in the third element’s balancing of the equities and is not determinative of whether plaintiff can or will prevail as a matter of law.” (116 A.3d at 208)

“The three elements for unjust enrichment and quantum meruit are well settled in our jurisprudence and do not include a requirement that the proponent of the claim prove that it lacks an adequate remedy at law.” (116 A.3d at 209)

“We remand the application to the trial justice with an instruction to enter a new order awarding the costs of the action to the plaintiff in an amount that reflects all of the costs for which the plaintiff applied, except Brungraber’s expert witness fee.” (116 A.3d at 212)

FACTUAL BACKGROUND

The McMahons hired Heinz Construction as general contractor to build a house and barn on Block Island. Heinz Construction engaged South County Post & Beam to perform timber-frame and related construction work under work orders and change orders, and South County also performed additional roof-tower and deck work outside the written orders. South County received partial payments but claimed an unpaid balance of \$41,549.45; the McMahons had made one direct payment of \$60,100 and communicated with South County about the work and billing. The Superior Court found that the McMahons received and appreciated the benefit of the work and that retaining it without payment would be unjust.

PROCEDURAL HISTORY

South County Post & Beam sued the McMahons for breach of contract, book account, and unjust enrichment arising from unpaid construction work. After a bench trial, the Superior Court entered judgment for defendants on breach of contract and for plaintiff on unjust enrichment, awarding \$41,549.45 plus costs; the book-account claim and defendants' counterclaims had been withdrawn or dismissed before trial. The Superior Court later awarded all requested costs, including the expert-witness fee. The Supreme Court affirmed the unjust-enrichment judgment but vacated and remanded the costs order.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Superior Court must enter a new order awarding the plaintiff the taxable costs for which it applied, excluding the \$1,365.20 expert-witness fee.

CASES CITED

- JPL Livery Services, Inc. v. Rhode Island Department of Administration, 88 A.3d 1134, 1141-42 (R.I. 2014)
- Connor v. Schlemmer, 996 A.2d 98, 109 (R.I. 2010)
- Notarantonio v. Notarantonio, 941 A.2d 138, 144-45 (R.I. 2008)
- Reagan v. City of Newport, 43 A.3d 33, 37 (R.I. 2012)
- Cullen v. Tarini, 15 A.3d 968, 976 (R.I. 2011)
- Emond Plumbing & Heating, Inc. v. BankNewport, 105 A.3d 85, 90 (R.I. 2014)
- Dellagrotta v. Dellagrotta, 873 A.2d 101, 113, 115 (R.I. 2005)
- Process Engineers & Constructors, Inc. v. DiGregorio, Inc., 93 A.3d 1047, 1052-53 (R.I. 2014)
- National Chain Co. v. Campbell, 487 A.2d 132, 135 (R.I. 1985)
- Parnoff v. Yuille, 57 A.3d 349, 355 & n.7 (Conn. App. Ct. 2012)
- Multi-State Restoration, Inc. v. DWS Properties, LLC, 61 A.3d 414, 418 (R.I. 2013)
- Bouchard v. Price, 694 A.2d 670, 673 (R.I. 1997)
- Fondedile, S.A. v. C.E. Maguire, Inc., 610 A.2d 87, 97 (R.I. 1992)
- R & B Electric Co. v. Amco Construction Co., 471 A.2d 1351, 1355-56 (R.I. 1984)
- Narragansett Electric Co. v. Carbone, 898 A.2d 87, 99 (R.I. 2006)
- United Lending Corp. v. City of Providence, 827 A.2d 626, 632 (R.I. 2003)
- National Refrigeration, Inc. v. Capital Properties, Inc., 88 A.3d 1150, 1156 (R.I. 2014)
- Morel v. Napolitano, 64 A.3d 1176, 1179 (R.I. 2013)
- Mendes v. Factor, 41 A.3d 994, 1002 (R.I. 2012)
- Generation Realty, LLC v. Catanzaro, 21 A.3d 253, 259 (R.I. 2011)
- Such v. State, 950 A.2d 1150, 1156 (R.I. 2008)
- State ex rel. Webb v. Cianci, 591 A.2d 1193, 1203 (R.I. 1991)

- Warwick Housing Authority v. McLeod, 913 A.2d 1033, 1036-37 (R.I. 2007)
- Chiaradio v. Falck, 794 A.2d 494, 496 (R.I. 2002)
- Kottis v. Cerilli, 612 A.2d 661, 669 (R.I. 1992)

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