

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 14-13032

D. C. Docket No. 1:13-cv-00499-WS-B

FLORIDA ROCK INDUSTRIES, INC.,

Plaintiff-Counter
Defendant-Appellant,

versus

ESCAMBIA SAND & GRAVEL COMPANY, INC.,

Defendant- Counter
Claimant-Appellee.

Appeal from the United States District Court
for the Southern District of Alabama

(May 26, 2015)

Before HULL, ANDERSON, and FARRIS,* Circuit Judges.

* Honorable Jerome Farris, United States Circuit Judge for the Ninth Circuit, sitting by designation.

PER CURIAM:

We have had the benefit of oral argument in this case and have carefully considered the briefs and the record. We affirm the judgment of the district court on the basis of the comprehensive opinion of the district court dated June 6, 2014, with one caveat. We need not decide whether the potential adjustment to the forty-year term of the lease (i.e. an adjustment based upon a deviance from the expected volume of mineral reserves on the smaller Fuller property) was mandatory, or rather was subject only to the mutual agreement of the parties. In either case, for the reasons fully explored at oral argument, that would not transform the lease from one for years into a mere tenancy at will.

AFFIRMED