

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2010 CA 0826

PLEASURE BEACH, L.L.C.

VERSUS

DARRYL SMITH

Judgment Rendered: October 29, 2010

* * * * *

Appealed from the
Twenty-Second Judicial District Court
In and for the Parish of St. Tammany
State of Louisiana
Suit Number 2005-14552

Honorable William J. Crain, Presiding

* * * * *

Jesse L. Wimberly, III
Jesse L. Wimberly, IV
Mandeville, LA

Counsel for Plaintiff/Appellee
Pleasure Beach, L.L.C.

T. Jay Seales, III
Russell W. Rudolph
Michelle Alt Hazlett
Hammond, LA

Counsel for Defendant/Appellant
Darryl Smith

and

Nita J. R. Gorrell
Hammond, LA

* * * * *

BEFORE: PARRO, GUIDRY, AND HUGHES, JJ.

GUIDRY, J.

Defendant, Darryl Smith, appeals from a judgment of the trial court in favor of plaintiff, Pleasure Beach, L.L.C. (Pleasure Beach), awarding attorney's fees and court costs after finding that it was entitled to specific performance of a contract to purchase and sell immovable property. Smith separately appealed from the trial court's judgment ordering specific performance of the purchase agreement, and in Pleasure Beach v. Smith, 10-0238 (La. App. 1st Cir. 9/13/10) (unpublished opinion), this court affirmed the trial court's judgment.

In his present appeal, Smith does not contest the amount of attorney's fees and court costs awarded by the trial court, but rather, asserts that the judgment should be reversed only if this court rules in his favor on the merits. Because this court affirmed the trial court's judgment on the merits of Pleasure Beach's specific performance claim, and the agreement specifically provides for the payment of attorney's fees and court costs should the purchaser fail to comply with the terms of the agreement, we find no error in the trial court's judgment awarding attorney's fees and court costs to Pleasure Beach. Therefore, we affirm the judgment of the trial court in accordance with Uniform Rules – Courts of Appeal, Rule 2-16.2A (6) and (8) and assess all appeal costs to appellant, Darryl Smith.¹

AFFIRMED.

¹ Pleasure Beach filed a brief and answer to the appeal on June 15, 2010, seeking additional attorney's fees for work performed on appeal. However, this court struck the answer, as it was not filed within fifteen days of the return day or the lodging of the record. See La. C.C.P. art. 2133(A).