

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2013

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

L & H CONSTRUCTION, ETC.,

Appellant,

v.

Case No. 5D12-1447

CIRCLE REDMONT, INC., A FLORIDA
CORPORATION,

Appellee.

_____ /

Opinion filed March 8, 2013

Appeal from the Circuit Court
for Brevard County,
Robert Burger, Judge.

Melinda S. Gentile, of Peckar & Abramson,
P.C., Miami, and Charles F. Kenny, of
Peckar & Abramson, P.C., River Edge,
New Jersey, for Appellant.

Allan P. Whitehead and Erika McBryde, of
Frese, Hansen, Anderson, Anderson,
Heuston & Whitehead, P.A., Melbourne,
for Appellee.

PER CURIAM.

L&H Construction Company, Inc. ("L&H") appeals the Order Granting Defendant's Motion for New Trial rendered by the trial court. This is the second time that this breach of contract case has come before this court. In L&H Construction Co., Inc. v. Circle Redmont, Inc., 55 So. 3d 630 (Fla. 5th DCA 2011), this court held that

"[t]he record does not establish the basis of a breach of contract" and noted that "[t]he trial court made no findings, and the record does not reflect, that any delay was occasioned by L&H's conduct." Id. at 636. This court reversed the final judgment rendered following a non-jury trial, which had found L&H to be in breach of contract. Id. Conspicuously absent from this court's opinion are directions remanding this case to the trial court. Id. If this court had intended to remand this case for a new trial, we clearly would have said so and we did not. Therefore, the trial court erred in ordering a new trial. Accordingly, the Order under review is reversed.

REVERSED.

ORFINGER, C.J., SAWAYA and COHEN, JJ., concur.