

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D20-1981

ARGOS USA, LLC f/k/a Argos
Ready Mix, LLC,

Appellant,

v.

PATRICK FRANKLIN d/b/a Cephias
Concrete,

Appellee.

On appeal from the Circuit Court for Bay County.
John L. Fishel, II, Judge.

August 20, 2021

PER CURIAM.

Argos USA (“Argos”) filed a complaint against Patrick Franklin d/b/a Cephias Concrete (“Franklin”) seeking payment for concrete goods and services purchased from Argos pursuant to a verbal open account agreement. After a bench trial, the trial court entered judgment in favor of Franklin, concluding that Franklin owed nothing to Argos, which now seeks to reverse that judgment in this appeal.

A review of the evidentiary record shows no basis for the trial court’s conclusion that Franklin owed Argos nothing. No matter

how the evidence is viewed, it cannot be concluded that Franklin was not liable to Argos in some amount.

To the contrary, Argos presented evidence that Franklin was liable for \$259,389.40 worth of goods and services, and that Franklin made payments totaling only \$153,929.16, leaving an apparent balance due of \$105,460.24. Argos claims entitlement to \$118,286.69, which is the balance due plus \$12,826.45. The record reflects, however, that a check from Franklin for \$12,826.45 bounced and was added back to the balance on the payment reconciliation; as a result, the \$12,826.45 claimed is already included in the \$105,460.24 total. In addition, Franklin provided bank statements that showed two payments of \$295.52 and \$1,312.89, which had not been accounted for on the payment reconciliation. Franklin also presented evidence of several check payments, but those payments had already been accounted for on the payment reconciliation. The net result is that the record evidence establishes that Franklin owes Argos \$103,851.83, which is the amount on the payment reconciliation (\$105,460.24) minus these two payments from Franklin (\$295.52 and \$1,312.89).

Because the trial court's finding of no liability was against the weight of the evidence, we reverse with instructions to enter judgment in favor of Argos in the amount of \$103,851.83 nunc pro tunc to the date of the final judgment and to resolve any other pending claims.

REVERSED.

B.L. THOMAS, MAKAR, and KELSEY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Lillian Elizabeth Crommelin and Jeffrey S. Leeper of Busch, Reed, Jones & Leeper, P.C., Marietta, Georgia, for Appellant.

No appearance for Appellee.