

C. WAYNE CRAWFORD and LYNN P. CRAWFORD v. COLON S. MINTZ, JR., WILLIAM R. OWENS, and BFD PROPERTIES, INC. d/b/a RE/MAX PROPERTY ASSOCIATES

No. 47A08

FILED: 12 DECEMBER 2008

Fraud–negligent misrepresentation–misinformation in MLS listing–justifiable reliance

The decision of the Court of Appeals that the trial court erred by denying defendant real estate brokers' motion for a directed verdict on plaintiff buyers' claim for negligent misrepresentation arising from defendants' incorrect statement on the sellers' MLS listing that the house was served by a city sewer system when it in fact had a septic system is reversed for the reason stated in the dissenting opinion that, although the buyers saw this misinformation on a printout that omitted the language "Information deemed reliable but not guaranteed," the trial court properly submitted the issue of justifiable reliance to the jury.

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 187 N.C. App. 378, 653 S.E.2d 222 (2007), reversing an order and judgment entered on 11 May 2006 by Judge James R. Fullwood in District Court, Wake County. On 11 June 2008, the Supreme Court allowed plaintiffs' petition for discretionary review of additional issues. Heard in the Supreme Court 19 November 2008.

Everett, Gaskins, Hancock & Stevens, LLP, by E.D. Gaskins, Jr. and Michael J. Tadych, for plaintiff-appellants.

McDaniel & Anderson, L.L.P., by John M. Kirby, for defendant-appellees.

PER CURIAM.

For the reasons stated in the dissenting opinion, the decision of the Court of Appeals is reversed. This case is remanded to the Court of Appeals for consideration of the remaining assignments of error. Plaintiffs' petition for discretionary review as to additional issues was improvidently allowed.

REVERSED AND REMANDED; DISCRETIONARY REVIEW
IMPROVIDENTLY ALLOWED.