FILED
AUG 27 1992
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 2-126 / 91-1099

KEITH ECK and **JOHN ASCHINGER**, d/b/a **ECK AND ASCH BUILDINGS**,

Appellees,

vs.

JEROME H. SCHWARTE and **STARR SCHWARTE**,

Appellants.

Appeal from the Iowa District Court for Crawford County, Dewie J. Gaul, Judge.

The Schwartes appeal an action involving foreclosure of a mechanic's lien against their home which was constructed by Eck and Aschinger; Eck and Aschinger cross-appeal. **AFFIRMED.**

Thomas R. Eller of Eller, Brink & Sextro, Denison, for appellants.

Reed H. Reitz of Reimer, Lohman & Reitz, Denison, for appellees.

Considered by Oxberger, C.J., and Donielson and Habhab, JJ.

HABHAB, J.

FACTS

Keith Eck and John Aschinger are partners in Eck and Asch Builders, a carpentry contracting business. In the summer of 1989, Eck and Aschinger agreed to construct a new home from a Linwood Homes Kit for the Schwartes. The parties orally agreed Eck and Aschinger would furnish carpentry labor at $9.00 per hour and the Schwartes would purchase all the materials. Other contractors were assigned to do the plumbing, electrical, masonry, fireplace, and air conditioning elements of the construction.

Eck, Aschinger, and their employees worked at the Schwarte job from August 1989 until December 1989. At that point, the Schwartes hired another contractor to complete the work. They had paid Eck and Aschinger $11,780. Eck and Aschinger maintain the Schwartes owed them an additional $10,969.26, plus interest. The Schwartes refused to pay.

Eck and Aschinger instituted an action in equity to foreclose their mechanic's lien and obtain a personal judgment against the Schwartes. The matter was submitted to the trial court, who observed the litigants disputed the number of hours actually worked. The court concluded Eck and Aschinger worked approximately 1,715 hours. It then multiplied 1,715 hours by $9.00 per hour to arrive at a figure of $15,435. The evidence showed Eck and Aschinger

paid $4,312.20 for materials. The court added $15,435 and $4,312 to arrive at a total of $19,747.20. It then subtracted $11,780 for the amount already paid. It also gave the Schwartes a $500 credit for some defective work. Ultimately, the court concluded Eck and Aschinger are entitled to recover $7,467.20, plus interest at 10% per annum from October 22, 1990, attorney fees in the amount of $2,724, and costs. It then stated the following:

> The judgment for . . . [the amounts of $7,467.20, plus interest at 10% per annum from October 22, 1990, attorney fees in the amount of $2,724, and costs] are established as a lien upon the real estate . . ., superior to the rights of the defendants, and said lien may be foreclosed by the plaintiffs and special execution shall be issued for the sale of said real estate and, unless redeemed, a sheriff's deed shall be issued to the purchaser or such purchaser's assignee, conveying the title to said property as against the defendants and after such issuance a Writ of Possession shall issue to put such grantee into possession of said premises.

The Schwartes appeal; Eck and Aschinger cross-appeal. We affirm.

SCOPE OF REVIEW

In this equity action, our review is de novo. Iowa R. App. P. 4. We have a duty to examine the entire record and adjudicate anew rights on the issues properly presented. In re Marriage of Steenhoek, 305 N.W.2d 448, 452 (Iowa 1981). We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 14(f)(7).

ANALYSIS

I. The Schwartes argue the trial court's judgment and decree are unsupported by the evidence. They contend we should set aside the portion of the decree imposing a finding that they owe $7,967.27 for additional labor. They maintain they owe Eck and Aschinger $1,262 for additional labor, less $500 for the defective work, which results in a total of $762.20, rather than $7,467.27 as ordered by the trial court. We disagree.

It is obvious from the decree the trial court gave substantial credence to the evidence introduced by Eck and Aschinger regarding the number of hours worked on the Schwartes' home. On the record before us, we cannot say the court was wrong in so doing. As stated previously, although our review is de novo, we give weight to the findings of the trial court, especially in matters involving credibility of witnesses. See Olberding Constr. Co. v. Ruden, 243 N.W.2d 872, 877 (Iowa 1976). Guided by the above standard, we affirm the trial court's determination of the reasonable value of the work performed by Eck and Aschinger for the Schwartes.

> "In mechanics' lien cases, involving as they do numerous charges and counter charges which depend entirely on the credibility of the parties, we have frequently held the trial court is in a more advantageous position than we to put credence where it belongs."

Id. (quoting McDonald v. Welch, 176 N.W.2d 846, 849 (Iowa 1970)).

We hold the trial court was correct in its findings of the reasonable value of the construction work done by Eck and Aschinger on the Schwartes' property. We affirm the trial court on this issue.

II. We find no merit in the cross-appeal and order its dismissal. The amount requested was considered when the award was entered in favor of the plaintiffs.

III. The Schwartes further argue the attorney fees awarded by the trial court were excessive. We disagree.

A plaintiff in an action to enforce a mechanic's lien for labor or material furnished directly by the plaintiff to the defendant shall, if successful, be awarded reasonable attorney fees. Iowa Code § 572.32 (1991).

We are unable to conclude the trial court abused its discretion in awarding Eck and Aschinger attorney fees in the amount of $2,724. Further, we find the parties should pay their own attorney fees on appeal. We affirm the district court on this issue.

CONCLUSION

After considering all issues presented, we affirm the district court.

Costs of this appeal are to be divided equally between the parties.

AFFIRMED.