FILED
JUL 27 1988
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

LYMAN-RICHEY CORPORATION, d/b/a LYMAN-RICHEY SAND & GRAVEL CO., a Delaware Corporation,

Plaintiff-Appellee,

vs.

R.L. CRAFT CO., a Corporation, and HARTFORD ACCIDENT AND INDEMNITY CO., a Corporation,

Defendants-Appellants.

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ASH GROVE CEMENT COMPANY,

Plaintiff,

vs.

STATE OF IOWA, THE IOWA DEPARTMENT OF TRANSPORTATION; R.L. CRAFT CO., INC.; CRAFT REDI MIX CO.; HARTFORD ACCIDENT AND INDEMNITY COMPANY and LYMAN-RICHEY CORPORATION, d/b/a LYMAN-RICHEY SAND AND GRAVEL CO.,

Defendants.

8-196
87-678

Appeal from the Iowa District Court for Fremont County (21750 & 21762), Glen M. McGee, Judge.

Defendant appeals the district court judgment granted in favor of plaintiff. **AFFIRMED.**

Bruce D. Fleming of Pogge, Root & Fleming, Council Bluffs, for defendants-appellants and defendant Craft Redi Mix.

Jay W. Longinaker of EAton & Longinaker, Sidney, for plaintiff-appellee.

Considered by Donielson, P.J., and Hayden and Habhab, JJ.

HAYDEN, J.

Defendant, R.L. Craft Company, appeals the district court judgment granted in favor of plaintiff, Lyman-Richey Corporation, d/b/a Lyman-Richey Sand & Gravel Company. R.L. Craft asserts the evidence was not sufficient to support the finding by the district court a contract existed between it and Lyman-Richey. If the contract is found to exist, R.L. Craft contends the evidence was insufficient to find a contractual rate of interest of eighteen percent. R.L. Craft also challenges some evidentiary rulings by the district court. We affirm.

Lyman-Richey brought this action against R.L. Craft and its surety, Hartford Accident and Indemnity Company, pursuant to Iowa Code chapter 573. R.L. Craft had entered into an agreement with the State to pave the portion of Highway 333 near Hamburg, Iowa. Lyman-Richey contended it contracted with R.L. Craft to provide the aggregate for this project. R.L. Craft contended Lyman-Richey's contract was with a third company, Craft Redi Mix, a subcontractor on the project. Since Craft Redi Mix only furnished materials, and not labor, to the project, R.L. Craft argued Iowa Code section 573.7 barred Lyman-Richey's claim: "A person furnishing only materials to a subcontractor who is furnishing only materials is not entitled to a claim against the retainage or bond under this chapter and is not an obligee or person protected under the bond pursuant to section 573.6." Iowa Code § 573.7.

This case was tried to the district court. The court found R.L. Craft entered into a contract with Lyman-Richey, which contract provided for interest of 18% to accrue on overdue amounts. The district court awarded Lyman-Richey $53,935.84, with interest to accrue at the contractual rate. This appeal followed.

As this case was tried to the district court:

> Appellate review is on errors of law and the trial court's fact findings have the effect of a special verdict. We view the evidence in the light most favorable to upholding the judgment. If the findings are supported by substantial evidence, we are bound by them. "Evidence is substantial if a reasonable mind would accept it as adequate to reach a conclusion."

Trobaugh v. Hy-Vee Food Stores, 392 N.W.2d 154, 156 (Iowa 1986) (citations omitted).

The record reflects the following. In the summer of 1984, the sales manager of Lyman-Richey was contracted by an employee of R.L. Craft and was asked to provide a quote for the price of aggregate for the Highway 333 project. The quote was provided and the aggregate was purchased. All of the delivery invoices for the aggregate were made out to R.L. Craft and listed the number assigned by the State to the Highway 333 project. The aggregate was delivered to the job site in Hamburg. The district court found the contractual rate of interest per the terms of Lyman-Richey's invoices and the testimony of Gordon Wellensink, credit manager for Lyman-Richey.

We conclude the district court's decisions regarding the existence of a contract between Lyman-Richey and R.L. Craft and the contractual rate of interest were supported by substantial evidence. We also find no merit in R.L. Craft's challenges to the district court's evidentiary rulings.

AFFIRMED.