Spahn v. Richards
(2021) 72 Cal.App.5th 208

Where Substantial Evidence Shows that a Party Denying Requests for Admissions did not have a Reasonable Basis to Deny it, the Requesting Party is Entitled to Costs of Proof

FACTS/ PROCEDURE

Plaintiffs, Jeffrey Spahn and Paul Bontekoe, purchased property in Berkely intending to demolish the existing structure and build a new residence where Spahn – a California attorney – could showcase his art collection. They hired a designer, Ajay Manthripragada, and together they interviewed Defendant Richards, a licensed contractor in May 2015 to discuss the entire job.

On June 30, 2015, Richards signed a written contract for the demolition work and completed the demolition that same day. Emails that day between plaintiff and their designer stated they were still waiting for Richards' bid to build the house and were looking at options to hire other contractors. They thereafter solicited bids from other contractors who estimated $600,000 to $800,000 to build the house and called Plaintiff's $500,000 budget "ridiculous."

On July 21, 2015, Spahn told Manthripragada: "I think we have a committed contractor we just need to tread lightly until we have a contract signed." About a week later, Spahn and Manthripragada prepared a draft construction agreement. The contract attached an "itemized budget" with a total cost of $515,000. Because Richards had not provided a bid or an itemized cost breakdown, Spahn and Manthripragada "'made up'" certain costs and used cost estimates from other contractors' bids.

In early August 2015, Spahn asked Richards to come to his office. During that meeting, Spahn presented Richards with the written contract. It was signed by plaintiffs. Richards was "flabbergasted" over the fake budget. He did not sign the contract and later told plaintiffs he was not going to do the construction project. Plaintiffs hired another contactor who built the house for over a $1 million.

In 2017, plaintiffs filed a breach of contract complaint against Richards. Plaintiffs alleged they met with Richards in mid-June 2015 and at that time reached an oral agreement that Richards would perform all work in two phases: the demolition phase for $12,500 and building the new residence for $515,000. Richards issued RFAs asking plaintiffs to admit the parties did not enter into an oral contract and did not have a meeting of the minds as to that alleged contract. Plaintiffs denied the RFAs. Richards' MSJ was denied on the grounds there were triable issues of material fact as to whether the parties entered into an enforceable oral contract to build a new residence in June 2015.

At trial, the testimony of the parties and the plaintiffs' designer, along with emails established the above facts. However, Spahn testified that he and Richards reached an oral agreement in June 2015 during a phone call lasting a couple of minutes, wherein Richards agreed to build the home for the fixed price of $515,000.

Richards moved for directed verdict. The court denied the motion, but noted it was "very close." The jury returned a defense verdict concluding there was no oral contract. The Court thereafter found plaintiffs did not have reasonable grounds to deny the RFAs and awarded Richards' cost of proof damages of $239,170.86.

1st APPELLATE DISTRICT

Plaintiffs appealed asserting they had "reasonable grounds" to deny the RFAs. The 1st DCA noted that in order to deny an RFA, a party must have a reasonable belief they would be able to establish the existence of a binding oral contract at trial. This belief must be grounded in the evidence; it cannot be based merely on a 'hope or a roll of the dice.' It is not enough for the denying party to "hotly contest' the issue. There must be a reasonable basis for contesting the issue. A party's reliance on "self-serving testimony" may be insufficient to establish a reasonable refusal to admit an RFA.

Plaintiffs argued Richards's actions were consistent with the existence of an oral contract in June 2015 because he then submitted a qualification request to their lender and started lining up subcontractors. The Court found this was conduct consistent with preparation to determining if the contractor could perform the work. Additionally, the evidence showed that although plaintiffs alleged they entered an oral contract no later than mid-June 2015, but in late June and early July—after they allegedly entered an oral contract—plaintiffs had not received a bid from Richards or selected him to do the job and instead were soliciting and receiving bids from other contractors. Also, if they already had an oral agreement, they would not have needed to try to get Richards to sign a written agreement in August.

Plaintiffs also argued costs of proof should not be awarded because the trial court denied the MSJ. The Appeals Court denied this argument noting CCP section 2033.420(b) states an RFA can be denied if the party holds a reasonable, good faith belief the party would prevail "*at trial."* Here, plaintiffs' evidence at trial was implausible and therefore they did not have a reasonable belief.