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No. 3--09--0187

Order filed February 4, 2011

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2011

JERRY ROBERTS, Individually )	Appeal from the Circuit Court
and doing business as Roberts )	of the Ninth Judicial Circuit
Cleaning, Maintenance and )	McDonough County, Illinois
More, )	
)	
Plaintiff-Appellee )	
and Counterdefendant- )	
Appellee, )	
)	No. 08--SC--45
v. )	
)	
DALE and WANDA ADKINS, )	
)	
Defendants-Appellants )	Honorable
and Counterplaintiffs- )	William D. Henderson,
Appellants. )	Judge Presiding

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JUSTICE LYTTON delivered the judgment of the court.  
Justices O'Brien and Wright concurred in the judgment.

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**ORDER**

*Held:* In light of the supreme court's decision in *K. Miller Construction Co. v. McGinnis*, 238 Ill. 2d 284 (2010), we affirm the trial court's order foreclosing the contractor's mechanic's lien and awarding attorney fees to the contractor, despite his violation of the Home Repair and Remodeling Act. We adhere to all of

our other holdings in *Robert v. Adkins*, 397 Ill. App. 3d 858 (2010).

On January 7, 2010, we issued our opinion in this case, holding that: (1) the Home Repair and Remodeling Act (Act) (815 ILCS 513/1 *et seq.* (West 2006)) applied to the agreement between the parties; (2) the contractor violated the Act, thereby making his mechanic's lien against the homeowners unenforceable; (3) neither the contractor nor the homeowners were entitled to attorney fees; (4) the contractor breached his contract with the homeowners; and (5) the homeowners could not recover under the Consumer Fraud Act. 397 Ill. App. 3d 858 (2010). On November 24, 2010, the supreme court directed us to vacate our judgment and reconsider our opinion in light of its decision in *K. Miller Construction Co. v. McGinnis*, 238 Ill. 2d 284 (2010).

In *McGinnis*, the supreme court held that a contractor's violation of the Act does not render an oral contract between a contractor and homeowner unenforceable. 238 Ill. 2d at \_\_\_\_\_. Furthermore, a contractor may foreclose on a mechanic's lien against a homeowner even if the contractor violated the Act by failing to put the underlying contract in writing. *Id.*

In light of the supreme court's decision in *McGinnis*, we now affirm the trial court's order granting Roberts' complaint to foreclose on his mechanic's lien against the Adkins. We further

find that because Roberts succeeded on his mechanic's lien claim, the trial court properly awarded him attorney fees under the Illinois Mechanic's Lien Act. See 770 ILCS 60/17(b) (West 2006).

With respect to the remaining issues presented in this case, we adhere to our prior holdings that (1) the Act applied to the agreement between the parties; (2) the Adkins were not entitled to attorney fees; (3) Roberts breached his contract with the Adkins; and (4) the Adkins could not recover under the Consumer Fraud Act. We remand for the trial court to determine the damages the Adkins are entitled to as a result of Roberts' breach.

#### CONCLUSION

The judgment of the circuit court of McDonough County is affirmed in part and reversed in part; cause remanded.

Affirmed in part and reversed in part; cause remanded.