2014 IL App (4th) 140102-U

NO. 4-14-0102

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
December 2, 2014
Carla Bender
4th District Appellate
Court, IL

SCHMOLDT & DANIELS MASONRY, INC., and EVANS-MASON, INC.,	)	Appeal from
Plaintiffs-Appellees,	)	Circuit Court of
v.	)	Champaign County
723 S. NEIL, LLC,	)	No. 10CH306
Defendant-Appellant.	)	
	)	Honorable
	)	Charles McRae Leonhard,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Presiding Justice Pope and Justice Appleton concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The trial court correctly found an enforceable contract existed between the parties.

(2) The trial court appropriately considered extrinsic evidence where certain contract language was ambiguous.

(3) Plaintiffs were entitled to recover for "extra work" not included in the written contract but orally agreed upon.

¶ 2 Plaintiffs, Schmoldt & Daniels Masonry, Inc., and Evans-Mason, Inc., sued defendant, 723 S Neil, LLC, for breach of contract. Plaintiffs alleged that defendant breached the parties' "time and material" contract for masonry services by failing to pay for the work performed. Following a bench trial, the trial court found in plaintiffs' favor, and entered judgment against defendant for $73,633.38 plus prejudgment interest. Defendant appeals, asserting the trial court erred when it (1) determined that a contract existed between the parties;

(2) determined that a term of the written agreement was ambiguous and considered extrinsic evidence beyond the four corners of the agreement; and (3) found that plaintiffs were entitled to recover for "extra work" when no evidence showed that defendant agreed to pay for extra work in excess of the agreed contract maximum price of $80,000. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Defendant is a limited liability company that purchased property known as the "Whiteline Laundry Building" in Champaign, Illinois. Defendant, with financial assistance from the city of Champaign, embarked upon a multimillion dollar renovation of the building with the intent to redevelop it for condominium, restaurant, and retail commercial uses. In April 2008, defendant, through its agent/owner, Janet Bubin, retained the services of Neil Strack, an architect. Defendant then solicited bids from various contractors to complete the proposed renovations.

¶ 5 Plaintiffs are masonry contractors and, along with three other masonry contractors, submitted bids to defendant. According to their complaint, plaintiffs "performed services in concert" with respect to the masonry work at issue here. On July 16, 2008, plaintiffs submitted a written proposal to defendant in which they "propose[d] to furnish and install all labor, material, and equipment required to complete the masonry work on the above project as per plans and discussions for the sum of $122,550." The proposal set forth the scope of work included in the price, and noted plaintiffs would waterproof the masonry for an additional $6,850. Bubin testified that she rejected this proposal because the cost "was too high." On July 21, 2008, plaintiffs submitted a second written proposal to defendant in which they "propose[d] to furnish and install all labor, material, and equipment required to complete the masonry work on the above project as per plans and discussions for the sum of $93,500." The second proposal

also set forth the scope of the work included in that price which eliminated some items included in the first proposal, and noted plaintiffs would waterproof the masonry for an additional $5,500. According to plaintiffs' agent, Brett Seward, he and Bubin had discussed the work to be performed and Bubin indicated she could supply some of her own private labor force for the project. Thus, the second proposal reflected the plaintiffs' reduced labor responsibility. Bubin testified that she also rejected the second proposal because the cost "was too high."

¶ 6 On July 31, 2008, plaintiffs submitted a third proposal. This proposal stated as follows:

> "We propose to complete the above masonry project on a Time and Material basis per plans with a not to exceed $80,000.00 budget.
>
> Covers sheets S1.1 thru S1.4 and Architectural sheets A1.1 thru A12.1 Dated 7-03DB
>
> Scope of work
>
> Cut-out and tuck-point per plans
>
> All demolishing of masonry walls per our scope of work
>
> All toothing required for masonry openings
>
> All masonry lintels supplied and installed per plans
>
> Cleaning of existing brick for reuse by others but installed
>
> All caulking at existing windows, doors and other areas indicated by drawings
>
> Scrape and paint existing lintels and removal of caulking
>
> Excludes power wash the façade in its entirety

Excludes dumpsters

Excludes any work and materials for elevator

All patching of sill and stone

Water-proofing included[.]"

The third proposal included not only those items in the second proposal, with the exception of one task, but also some additional items, including waterproofing. According to Seward, who drafted the proposal, the third proposal was different from the first two proposals in that the third proposal was a time and material proposal whereas the first two were lump-sum proposals. Seward testified that the purpose of the $80,000 budget figure was to give Bubin "a rough idea what it's going to cost us as long as her forces could complete some of the work that was described on the plans and the specs." Seward further testified that he explained to Bubin the difference between the prior lump-sum proposals and the time and material proposal. According to Seward, he changed the third proposal to a time and material proposal because he was uncertain how Bubin's private workers would perform. If they performed well, Bubin would save money with the time and material proposal. Bubin denied that Seward discussed the time and material aspect of the third proposal with her. On August 3, 2008, Bubin signed in acceptance plaintiffs' third proposal and plaintiffs commenced work on the project shortly thereafter.

¶ 7 Seward testified that throughout the course of plaintiffs' work on the project, plaintiffs agreed to perform additional work at Bubin and/or Strack's request which was not included in the scope of the signed proposal. This additional work included replacing steel lintels and I-beams that were rusted and cleaning the original brick that was to be reused. According to Seward, Bubin had initially hired her own private labor to clean the brick. Bubin

told plaintiffs "to direct [the private workers] to what work needed done, to have them do it if they could possibly do it." However, Seward stated the workers who were cleaning the brick destroyed approximately half the bricks they attempted to clean so plaintiffs had to "put that to a halt" because if they continued destroying bricks, "we wouldn't have had enough brick to even come close to finishing the exterior or let alone the interior of the building to mat[c]h the brick[s] that are already on the building." Seward explained that brick cleaning is a labor-intensive task that was not included in plaintiffs' third proposal. Additionally, Seward stated Bubin's workers did not clean up behind themselves so plaintiffs "had to take that over and continue the cleanup process." Further, Seward testified plaintiffs also had to hook up drains, pour concrete for footings, tear down piers, tuck-point certain areas, and remove signage—work that was not included in plaintiffs' third proposal because it was to be completed by Bubin's privately hired workers. Seward stated that plaintiffs also rented a jackhammer at Bubin's request for her workers to use, but it was never returned to them.

¶ 8 Plaintiffs' expert witness, James Lee, a "professional scheduler and planner for project controls" in the construction industry, testified that the difference between a lump-sum contract and a time and material contract is that the contractor assumes the risk in a lump-sum contract, whereas the parties share the risk in a time and material contract. Lee explained that one of the benefits of a time and material contract is that the parties to the contract do not have to write change orders, which takes time and slows progress. Lee testified that the third proposal at issue here was "kind of a hybrid" which "put the contractor in a position to make sure that they are notifying the owner that they are performing actual work." However, Lee explained the contractor does not have to inform the owner of the cost up front because the work is performed

on a time and material basis. According to Lee, the time and material clause controlled over the "not-to-exceed" phrase in the third proposal.

¶ 9 Defendant's architect, Neil Strack, testified that a time and material contract can be either open-ended or capped. If the contract is open-ended, the contractor simply bills for labor and materials until the project is completed. In contrast, Strack testified, a capped time and material contract has a ceiling which the contractor may not exceed. In other words, the contractor may bill for labor and material up to the set ceiling price but not beyond. According to Strack, the third proposal at issue here was a capped time and material contract with a ceiling of $80,000. Strack testified that Bubin had negotiated with plaintiffs and to save money, decided to hire her own labor force to complete some of the masonry work.

¶ 10 Strack further testified he was a party to discussions between himself, one of plaintiffs' representatives who may have been Seward, and Bubin regarding additional work that needed to be completed but was not included on the architectural drawings or in the written proposal, including installing lintels and tuck-pointing. However, he could not remember exactly when these conversations took place. Strack stated he told both parties to put the additional work agreed upon in writing "so there would be no questions later." Strack testified he received an email from Seward on September 30, 2008. The email stated as follows:

> "I am sending this to you so that we both are aware of some of the work that Janet has ask [*sic*] us to perform. I hope that when this project is all said and done the outcome of everybody's hard work will be appreciated.
>
> FYI. Janet has ask [*sic*] that we replace the existing lintels that are on the East elevation above the windows. These are

> needing replaced and we are or soon will be done with them. Documentation of our work on these are [*sic*] being kept so that if the budgetary [number] goes over we will have some kind of paper chase. I appreciate all the extra work that is offered to our firm but do not want this to came [*sic*] back to haunt us. There are other areas that were not on plans to do but need to be done for the longevity of this building. I am glad to help in the repairs that are ask [*sic*] of us to do as long as I keep records of the work that was not described in the plans. So all that being said here are some for the extra work, man hours and materials for some of the above described work to date."

After itemizing the work, Seward concluded, "[t]he total cost to date for all extra work per conversations with Janet or yourself is $21,891.40. I feel that all this work needs to be documented for future references[.]" Seward testified the purpose of the email was that he

> "wanted to make it upfront that there are changes in the scope of the work from what the drawings called out and that at the end of this project[,] I just didn't want nobody to feel that we were trying to—that there was something wrong because the scope of work has changed during the course from when we started to what the plans indicated. So I wanted to be upfront with everybody that the cost was going to change also."

¶ 11 Strack forwarded Seward's email to Bubin with a notation stating, "I have reviewed this work and it is in order. This is not work that was indicated on the [drawings] or

was in the mason contractors bid. It should be presented by the contractor as additional work." According to Strack, he could recommend extra work but he did not have the ability to authorize the extra work.

¶ 12 Bubin testified she received Seward's September 30, 2008, email and read its contents. However, she stated that Seward "did not give me these dollar amounts before work, never. He has never gave [*sic*] me this other amount before he performed his work." Upon being asked whether Strack recommended paying the $21,891.40, Bubin responded as follows:

> "I don't think he agreed to any dollar amount. He agreed to the additional work he claimed he did is in order. But he did not confirm dollar amount because he's not in [the] position to confirm the dollar amount, and I cannot agree to this or order him to do additional work at this price. He did not present it to me and I didn't sign anything in that regard. He would have given me, I mean something to confirm with my signature that I would allow 21,000-something, wouldn't he, because it's a contract."

Bubin testified she never responded to Seward's email. Bubin maintains she believed $80,000 was the maximum amount of money she would be required to pay plaintiffs. According to Bubin, she would not have signed plaintiffs' proposal if she knew plaintiffs could charge her more than $80,000.

¶ 13 Bubin testified that she received four invoices from plaintiffs. The first invoice dated August 8, 2008, was in the amount of $23,209.45. The "Bill Method" noted on the invoice was "Time & Material." Bubin stated she paid plaintiffs $20,000 "based on the contract." Bubin testified she did not pay the entire invoice because she was "going by the contract price,

$80,000" and "we were supposed to pay like one-fourth at the beginning" based on a verbal agreement with Seward. The second "Time & Material" invoice dated September 30, 2008, was for $43,824.28. Bubin testified she paid $40,000. The third "Time & Material" invoice dated November 7, 2008, was for $55,722.57. Bubin testified she paid $15,000. The fourth "Time & Material" invoice dated December 31, 2008, was for $25,877.08. Bubin testified she did not make any payment after receiving this invoice. On March 9, 2009, plaintiffs mailed Bubin a letter requesting payment on the outstanding invoices. On May 22, 2009, plaintiffs mailed Bubin another letter again requesting payment for "requested extra work." By this time plaintiffs had discontinued work on the project due to defendant's nonpayment. The May 22, 2009, letter noted that Strack—who was no longer acting as defendant's architect—had approved the extra work in the amount of $21,891.40. Plaintiffs further claimed that they had performed "additional extra work" at Bubin or her husband's request which exceeded $50,000.

¶ 14 On July 29, 2010, plaintiffs filed a three-count complaint against defendant, Janet Bubin and Barry Bubin (Janet Bubin's husband) individually, and Busey Bank. Count I alleged breach of contract against defendant and sought damages in the amount of $73,633.38 plus interest for unpaid masonry work completed by plaintiffs. Count II alleged breach of contract against the Bubins and sought the same damages as in count I. Count III sought to foreclose a mechanic's lien on the subject property in the amount of $73,633.38. In September 2010, defendant filed a counterclaim seeking $50,000 in damages for costs it incurred in hiring another contractor to complete the work after plaintiffs halted their work. Following an August 2013 bench trial, the trial court found in favor of plaintiffs on count I, in favor of the Bubins on count II, and in favor of plaintiffs on the counterclaim. In a January 8, 2014 docket order, the court found in favor of defendants on count III.

¶ 15 This appeal followed.

¶ 16 II. ANALYSIS

¶ 17 On appeal, defendant asserts the trial court erred when it (1) determined that a contract existed between the parties; (2) determined that a term of the written agreement was ambiguous and considered extrinsic evidence beyond the four corners of the agreement; and (3) found that plaintiffs were entitled to recover for "extra work" where no evidence existed that defendant agreed to pay for extra work in excess of the agreed contract maximum price of $80,000.

¶ 18 A. Whether a Contract Existed Between the Parties

¶ 19 Defendant first asserts that the trial court erred in determining a contract existed between the parties despite lack of proof that there was a "meeting of the minds" on an essential term contained in plaintiffs' third proposal. Specifically, defendant contends the parties disagreed on the meaning of the phrase "not to exceed $80,000.00 budget." Defendant also argues that the trial court erred in determining that this phrase in the written agreement was ambiguous and in considering extrinsic evidence to determine the parties' intent. Because these two issues involve the same contract language, we will examine them together.

¶ 20 Whether a contract exists, its terms, and the intent of the parties in forming the contract are questions of fact to be determined by the trier of fact. *Mulliken v. Lewis*, 245 Ill. App. 3d 512, 516, 615 N.E.2d 25, 27 (1993). "A reviewing court will not overturn a trial court's finding of fact unless the appealing party can prove the findings were against the manifest weight of the evidence." *Quinlan v. Stouffe*, 355 Ill. App. 3d 830, 836, 823 N.E.2d 597, 602 (2005). "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or where a decision is unreasonable, arbitrary, and not based on any evidence." *Id.*

Further, the trial court, " 'by virtue of its ability to actually observe the conduct and demeanor of witnesses, is in the best position to assess their credibility' " and for that reason, we defer to the trial court's credibility determinations. *In re Marriage of Manker*, 375 Ill. App. 3d 465, 477, 874 N.E.2d 880, 890 (2007) (quoting *In re Commitment of Sandry*, 367 Ill. App. 3d 949, 980, 857 N.E.2d 295, 319 (2006)).

¶ 21 In Illinois, the elements of a contract include an offer, acceptance of the offer, and consideration. *Melena v. Anheuser-Busch, Inc.*, 219 Ill. 2d 135, 151, 847 N.E.2d 99, 109 (2006). " 'Consideration' is defined as a bargained-for exchange, whereby one party receives a benefit or the other party suffers a detriment." *All American Roofing, Inc. v. Zurich American Insurance Co.*, 404 Ill. App. 3d 438, 449, 934 N.E.2d 679, 689 (2010).

¶ 22 In this case, the proposal at issue, signed by Bubin, stated that plaintiffs "propose[d] to complete the above masonry project on a Time and Material basis per plans with a not to exceed $80,000 budget." The proposal then listed several different tasks under "scope of work." As a threshold matter, the trial court held that this proposal embodied an enforceable written contract between the parties, where the elements of a contract, *i.e.*, offer, acceptance, and consideration, were apparent on the face of the document. We agree. Here, the offer (plaintiffs' third proposal), acceptance (Bubin's signature reflecting her acceptance), and consideration (plaintiffs' promise to perform masonry work) necessary for contract formation are apparent on the face of the third proposal. The trial court's finding that a contract existed between the parties was not against the manifest weight of the evidence.

¶ 23 Rather than arguing lack of an offer, acceptance, or consideration, defendant asserts that the parties did not arrive at a "meeting of the minds" with respect to the "not to exceed $80,000.00 budget" language in the contract. In other words, defendant argues the

parties lacked mutual assent regarding what it characterizes is an essential element of the contract. The trial court concluded this phrase in the contract was ambiguous but held the testimony at trial provided sufficient credible extrinsic evidence to resolve the ambiguity.

¶ 24 "It is axiomatic that a court's principal goal in construing a contract is to ascertain and give effect to the parties' intent at the time they entered the contract." *Shields Pork Plus, Inc. v. Swiss Valley Ag Service*, 329 Ill. App. 3d 305, 310, 767 N.E.2d 945, 950 (2002). In determining the parties' intent, "[a] contract must be construed as a whole, viewing each provision in light of the other provisions." *Thompson v. Gordon*, 241 Ill. 2d 428, 441, 948 N.E.2d 39, 47 (2011). When the terms of a contract are clear and unambiguous, they must be given their plain, ordinary and popular meaning. *Id.* If the language of the contract is susceptible to more than one meaning, it is ambiguous. *Id.* However, a mere disagreement between the parties regarding how to interpret terms in a contract does not, in itself, render the contract ambiguous. *Shields*, 329 Ill. App. 3d at 311, 767 N.E.2d at 950. "Whether contract language is ambiguous and requires extrinsic evidence for interpretation is a question of law subject to *de novo* review." *West Bend Mutual Insurance Co. v. Talton*, 2013 IL App (2d) 120814, ¶ 19, 997 N.E. 2d 784.

¶ 25 As set forth above, pursuant to the signed contract, plaintiffs "propose[d] to complete the above masonry project on a Time and Material basis per plans with a not to exceed $80,000.00 budget." The contract then listed a number of tasks under "[s]cope of work." On appeal, defendant asserts that the "not to exceed $80,000 budget" language established an absolute cap on what plaintiffs could charge for their services. Plaintiffs disagree with defendant's contention. They note that the language referenced, considered in context, is susceptible to more than one interpretation. Plaintiffs posit that the work associated with the

"$80,000.00 budget" could be limited to those tasks identified under "[s]cope of work" or it also could include tasks delineated in the architect's plans for the project's masonry contractor. Further, plaintiffs point out it is unclear whether the "not to exceed $80,000.00 budget" language meant that plaintiffs committed themselves to perform all tasks assigned by Bubin for a maximum amount of $80,000, or only those tasks enumerated in the third proposal. We agree that the "not to exceed $80,000.00 budget" language used in the contract is ambiguous as it is susceptible to more than one meaning. Thus, the trial court appropriately considered extrinsic evidence to resolve the ambiguity.

¶ 26 On appeal, defendant argues that its interpretation of the "not to exceed $80,000 budget" language as a maximum amount that plaintiffs could charge for all services provided was supported by Bubin's testimony that she rejected plaintiffs' first two proposals because the price was "too high." Defendant also points to Strack's testimony that the time and material contract at issue here was capped at $80,000. In contrast, Seward testified at trial that the "not to exceed $80,000 budget" language was intended only to give Bubin "a rough idea" of what it would cost plaintiffs to complete the masonry work included in its proposal under a time and material approach assuming that the private workforce Bubin was to employ would complete "some of the work that was described on the plans and the specs," thus decreasing the amount of work plaintiffs would perform under the contract.

¶ 27 The trial court found that Seward "credibly testified that [Bubin] long harbored a central concern that the masonry work was too expensive and that the respective reductions in price and work to be performed by plaintiffs reflected her continuing suggestion that workers in her employ perform certain tasks." The court further found that the $80,000 figure "was calculated under a central assumption that the workers to be provided by [Bubin] would indeed

perform as suggested." As the court noted, however, the evidence at trial established that Bubin's privately hired workers were unable to effectively perform the task of brick cleaning and, in fact, destroyed nearly half of the bricks they attempted to clean—bricks that were vital to the renovation project. The court concluded that "the testimony rendered by Mr. Seward overwhelmingly establishes what the intent of the contracting parties was." Further, the court noted "[t]he suggestion that Ms. Bubin was unsophisticated and that she either misapprehended the terms of the agreement or had her will overborne by plaintiffs is simply not supported by credible evidence." Based on the evidence presented, the court determined that Seward's testimony was more credible and that the $80,000 budget language at issue did not set forth an absolute cap on the amount plaintiffs could charge, but was subject to increase depending on whether the private workers hired by Bubin completed work which they proved unable to do.

¶ 28 We note the trial court's interpretation of the disputed language is further supported by Strack's note to Bubin regarding Seward's September 2008 email. In the email, Strack noted that the referenced work was "in order," was not included in plaintiffs' proposal, and should be presented as "additional work" by the contractor. This acknowledgement by Strack supports Seward's testimony that the "$80,000.00 budget" language in the contract pertained only to the tasks delineated in the contract and architectural drawings. Thus, we find the court did not err in determining the parties' intent relative to the ambiguous contract language.

¶ 29 B. Extra Work

¶ 30 Last, defendant asserts that "[t]he trial court erred when it found plaintiffs were entitled to recover for extra work when there was no evidence indicating that [d]efendant agreed to pay for extra work in excess of the agreed contract maximum price of $80,000."

¶ 31 In Illinois, a contractor seeking to recover additional payment for extra work "must establish by the evidence that (a) the work was outside the scope of his contract promises; (b) the extra items were ordered by the owner [citations]; (c) the owner agreed to pay extra, either by his words or conduct [citations]; (d) the extras were not furnished by the contractor as his voluntary act[;] and (e) the extra items were not rendered necessary by any fault of the contractor. [Citations.]" *Watson Lumber Co. v. Guennewig*, 79 Ill. App. 2d 377, 389-90, 226 N.E.2d 270, 276 (1967). "The proof that the items are extra, that the defendant ordered it as such, agreed to pay for it, and waived the necessity of a written stipulation, must be by clear and convincing evidence." *Id.*, at 390, 226 N.E.2d at 276. "The contractor should not be required to furnish items that were clearly beyond and outside of what the parties originally agreed that he would furnish. The owner has a right to full and good faith performance of the contractor's promise, but has no right to expand the nature and extent of the contractor's obligation." *Id.* at 390-91, 226 N.E.2d at 277.

¶ 32 Strack's testimony supports plaintiffs' claim that they performed additional work beyond what the parties initially contracted for. Strack testified the parties had discussions during which plaintiffs agreed to perform additional work not included in the third proposal. In September 2008, Seward sent Strack an email referencing Bubin's requests for plaintiffs to perform additional tasks in addition to the work included in the proposal. Seward's email noted, "I appreciate all the extra work that is offered to our firm but do not want this to came [*sic*] back to haunt us. There are other areas that were not on plans to do but need to be done for the longevity of this building. I am glad to help in the repairs that are ask [*sic*] of us to do as long as I keep records of the work that was not described in the plans." Seward's email concluded that "[t]he total cost to date for all extra work per conversations with [Bubin] or yourself is

$21,891.40." Strack forwarded this email to Bubin with a notation indicating, "I have reviewed this work and it is in order. This is not work that was indicated on the [drawings] or was in the mason contractors bid. It should be presented by the contractor as additional work."

¶ 33 Although Bubin acknowledged she received this email and read its contents, she did not respond to the email in any way. Notably absent from Bubin's testimony is any assertion that she never asked plaintiffs to perform this (or other) extra work. Rather, Bubin testified only that she "did not confirm these [costs] with Mr. Seward. He did not give me these dollar amounts before work, never. He has never gave [*sic*] me this other amount before he performed his work." However, plaintiffs' expert, James Lee, testified that one of the main benefits of a time and material contract is that the parties do not have to go through the formalities of writing change orders, which slows progress. Lee testified that it is common under a time and material contract to perform the requested work first and bill later. Further, plaintiffs sent multiple invoices to defendant, billing on a "time and material" basis.

¶ 34 Here, the evidence established that, in addition to taking over the labor-intensive task of brick cleaning, plaintiffs performed additional tasks at Bubin's request which were not included in the written contract. These tasks included cleaning up after Bubin's private workforce, installing drains, pouring concrete footings, tearing down piers, tuck-pointing additional areas not included in the original plans, and removing signage. Also at Bubin's request, plaintiffs rented a jackhammer for Bubin's workers that was never returned to them. Seward testified plaintiffs "ended up having to pay for the cost of the jackhammer" which "was a pretty expensive one." It would be manifestly unreasonable for Bubin to expect that the "$80,000.00 budget" would remain fixed given the significant expansion of the scope of work to

be completed by plaintiffs, which she requested, and which was not previously contemplated by the parties.

¶ 35 The evidence, both direct and circumstantial, establishes that plaintiffs performed work at Bubin's request which was outside of the work listed in the contract, that the parties previously agreed plaintiffs would charge on a time and material basis, that plaintiffs performed the extra work only at Bubin's request, and the need for the extra work was not caused by plaintiffs. Thus, the trial court's finding that the parties orally contracted for plaintiffs to complete tasks other than those identified in the written agreement was not against the manifest weight of the evidence.

¶ 36 III. CONCLUSION

¶ 37 For the reasons stated, we affirm the trial court's judgment.

¶ 38 Affirmed.