

SUMMARY STATEMENT

BrunoBuilt, Inc. v. Erstad Architects, PA.

Docket No. 49175

This appeal concerned a residence in the Boise foothills that was constructed, but never fully completed, after a 2016 landside damaged the property, impeded the completion of the new residence, and ultimately prevented the builder from obtaining a certificate of occupancy. In 2018, after the discovery of additional damage to the custom home itself, BrunoBuilt amended its complaint to include additional defendants. The amended complaint included a claim for professional negligence, in connection with work completed for construction of the residence, against Erstad Architects, PA, Andrew C. Erstad, and Cheryl Pearse.

Before the district court, Erstad Architects, Erstad, and Pearse moved for summary judgment, arguing that: (1) the statute of limitations in Idaho Code section 5-219(4) barred BrunoBuilt's claim, (2) the economic loss rule barred BrunoBuilt's claim, and (3) Erstad Architects, Erstad, and Pearse did not owe a tort duty to BrunoBuilt. The district court agreed on all three grounds and granted the defendants' motion for summary judgment.

After final judgment was entered, but two years after the district court issued its memorandum decision and order granting summary judgment, BrunoBuilt moved the district court for reconsideration of its earlier grant of summary judgment citing new evidence and arguments. BrunoBuilt explained that it, at least in part, sought "to ensure that all facts and arguments that support its position have been raised in this case for purposes of appeal." The district court denied the motion for reconsideration, concluding it was "untimely, lacking in diligence, and improper." While the motion to reconsider was still under advisement by the district court, BrunoBuilt appealed the final judgment.

On appeal, BrunoBuilt challenged the three conclusions of the district court and additionally asserted that the district court erred in an earlier order deconsolidating the cases. Inclusive in BrunoBuilt's opening brief were facts and arguments raised for the first time in its motion for reconsideration. However, BrunoBuilt never referenced, argued, or otherwise mentioned the motion to reconsider or the district court's position on the new facts and arguments in its opening brief. Accordingly, prior to oral argument, Erstad, Pearse, and Erstad Architects moved the Court to sanction counsel for BrunoBuilt pursuant to Idaho Appellate Rule 11.2 for non-disclosure of material procedural facts in its opening brief.

The Idaho Supreme Court affirmed the district court's decision granting summary judgement against BrunoBuilt because the statute of limitations in Idaho Code section 5-219(4) barred BrunoBuilt's claim against Erstad, Pearse, and Erstad Architects. Additionally, the Court agreed that the conduct of BrunoBuilt's attorney ran afoul of Rule 11.2 of the Idaho Rules of Appellate Procedure and imposed sanctions against counsel pursuant to Rule 11.2.

******This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.******