

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

LATISHA M. JACKSON)
Plaintiff,)

v.)

JOHN STALLINGS, ANTHONY)
DIZDAR, KATHERINE DEGLIOBIZZI)
and PRUDENTIAL FOX & ROACH)

Defendants,)

and)

KATHERINE DEGLIOBIZZI and)
PRUDENTIAL FOX & ROACH,)
Defendants/Third Party Plaintiffs,)

v.)

GRANITE INSPECTION SERVICES and)
REMAX ASSOCIATES, INC.)

Third Party Defendants,)

JOHN STALLINGS)
Defendant/Third Party Plaintiff)

v.)

DIVERSIFIED CONSTRUCTION)
COMPANY, LLC.)

Third Party Defendant.)

C.A. No. 08C-03-018 ALR

Submitted: March 10, 2014

Decided: March 10, 2014

**On Defendant John Stallings' Motion for Summary Judgment
DENIED**

Plaintiff Latisha Jackson bought a home at 1217 Lobdell Street in Wilmington, Delaware (“the Property”) from Defendant John Stallings on August 10, 2007. On August 10, 2007 Plaintiff and Defendant Stallings walked through

the Property and they both observed that the basement was wet. Plaintiff continued to observe wet conditions in the basement and Stallings had attempted to repair the wet conditions in the basement on various occasions. Plaintiff alleges that as a result of the conditions of the property, she and her family have suffered unsafe living conditions, loss of value of the property, mental and emotional distress, loss and enjoyment of life, lost time and expenses, and consequential damages. Plaintiff claims that Stallings is liable for (1) breach of contract, (2) bad faith, (3) misrepresentation, (4) consumer fraud, (5) common law fraud, and (6) violation of the Buyer Property Protection Act.

Summary judgment may be granted only where the moving party can “show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.”¹ The moving party bears the initial burden of proof, and once that is met, the burden shifts to the non-moving party to show that a material issue of fact exists.² In reviewing the facts at the motion for summary judgment phase, the Court must view the facts “in the light most favorable to the non-moving party.”³

In support of his Motion for Summary Judgment, Stallings argues that Plaintiff did not rely on Stallings’ representation of the conditions of the property,

¹ Super. Ct. R. Civ. P. 56.

² *Moore v. Sizemore*, 405 A.2d 679, 680-81 (Del. 1979).

³ *Brzoska v. Olson*, 668 A.2d 1355, 1364 (Del. 1995).

but rather on her own property inspector. Stallings also claims that Plaintiff does not have standing to sue because the Plaintiff has not been the title owner of the property since October 2012. Plaintiff contends that Stalling is not entitled to judgment as a matter of law. Viewing the facts in light most favorable to Plaintiff, the non-moving party, there are questions of fact that must be resolved by a trial. Among other questions, it is disputed whether Plaintiff relied on Stallings' representations, whether Stallings acted fraudulently or in bad faith, and whether Stallings breached his contract with the Plaintiff.

NOW, THEREFORE, IT IS HEREBY ORDERED this 10th day of March, 2014, that Defendant Stallings' Motion for Summary Judgment is DENIED.

Andrea L. Rocanelli

The Honorable Andrea L. Rocanelli