

**NOTICE**

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2016 IL App (4th) 150711-U

NO. 4-15-0711

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

June 6, 2016

Carla Bender

4<sup>th</sup> District Appellate

Court, IL

ERIC ANDERSON,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Sangamon County
JENNIFER DICKERSON,	)	No. 15SC1383
Defendant-Appellant.	)	
	)	Honorable
	)	Jack D. Davis II,
	)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.  
Justices Harris and Pope concurred in the judgment.

**ORDER**

¶ 1 *Held:* The appellate court affirmed the trial court's judgment awarding plaintiff, a contractor, \$4,760 for partial performance of a construction contract, where that amount constituted the cost of plaintiff's labor and supplies minus defendant's damages.

¶ 2 In April 2015, plaintiff, Eric Anderson, a contractor, filed a small-claims action against defendant, Jennifer Dickerson, a homeowner, in the amount of \$5,245 after she failed to pay him for services rendered on the partial performance of the construction contract. Defendant filed a response asserting plaintiff should receive no payment due to the lack of quality in the completed work.

¶ 3 In July 2015, the case proceeded to bench trial, after which the trial court granted judgment in favor of plaintiff in the amount of \$4,760—plaintiff's claim of \$5,245 minus \$485 defendant paid for another contractor to correct plaintiff's mistakes.

¶ 4 Defendant appeals, asserting the trial court erred by granting judgment in plaintiff's favor. We affirm.

¶ 5 I. BACKGROUND

¶ 6 In October 2014, the parties entered into a contract wherein plaintiff would perform various construction projects at defendant's home. In all, plaintiff could complete various projects for the maximum sum of \$26,615. The contract also contained a termination agreement, which stated, in relevant part,

"If the contractor fails or neglects to carry out the terms of the contract, the owner, after ten working days written notice to the contractor, may terminate this Agreement. The owner may finish the job by whatever reasonable method the owner deems expedient. If the cost of completion exceeds the contract balance, the difference, as well as reasonable attorney's fees if necessary, will be paid to the owner by the contractor."

¶ 7 At some point, the relationship between the parties broke down. In April 2015, plaintiff filed a small-claims complaint against defendant in the amount of \$5,245 for services he performed prior to the termination of their relationship. These costs included material and labor for (1) installing siding on the outside of the home and (2) remodeling one bathroom. In June 2015, defendant filed a response to the complaint, disputing the charges. Defendant asserted plaintiff quit working because he did not believe he could meet defendant's standards, and the work actually completed was improperly done. As a result, defendant stated plaintiff should pay her \$5,245 to redo the work and for her mental suffering.

¶ 8 In July 2015, the case proceeded to a bench trial, for which no transcript was made. However, the trial court included a lengthy docket entry summarizing its findings:

"The evidence in this case is that the Plaintiff performed services pursuant to a written contract with the Defendant for remodeling of a bathroom, installation of siding and other construction remodeling services. The Defendant admitted that she signed the contract, which was admitted into evidence as Plaintiff's Exhibit 1. Defendant [*sic*] performed services including installation of siding, a window and a bathtub. A dispute arose between the parties as to the manner in which the tub was installed. Defendant claimed that the tub was not level and that it was improperly installed. Plaintiff admitted during cross examination that the tub was not level. At that point (the point of the disagreement between the parties), Plaintiff elected to terminate the contract. The contract provided that despite termination of the contract, payment would be made for services performed through the date of the termination of the contract. The evidence established that the Plaintiff performed \$5[,]245 in labor for the services mentioned above. Defendant alleged that the tub was improperly installed and that it was not level[] and[] had 'gaps' that should not have existed. Defendant testified that subsequent to the termination of the contract, she had to hire a contractor to replace the tub and rework the installation at a cost of \$485. The evidence

establishes that Plaintiff is owed \$5,245, less the cost for the repair of the installation of the tub. Judgment for Plaintiff in the amount of \$4,760 plus costs of suit."

¶ 9 Later that month, defendant filed a motion to reconsider, asserting she had additional evidence to present in support of her case that she failed to introduce during the trial due to her inexperience and nerves. Attached to her motion were several exhibits in support of her case. The trial court denied the motion, stating defendant failed to state an appropriate legal basis for reconsideration.

¶ 10 This appeal followed.

¶ 11 II. ANALYSIS

¶ 12 On appeal, defendant asserts the trial court's judgment granting plaintiff \$4,760 was in error. Though defendant's brief classifies the court's order as "summary judgment," the record clearly demonstrates the court's judgment was reached after a bench trial on the merits.

¶ 13 The relevant record in this case consists of (1) plaintiff's complaint, (2) defendant's response to the complaint, (3) a docket entry wherein the trial court entered judgment following a bench trial, and (4) defendant's motion to reconsider. No transcript of the bench trial exists. We note it is the appellant's duty to provide a full record of proceedings. *Midwest Builder Distributing, Inc. v. Lord & Essex, Inc.*, 383 Ill. App. 3d 645, 655, 891 N.E.2d 1, 13 (2007). This could include a transcript of the proceedings or a bystander's report that is certified by the court. *Id.* "When there is a gap in the record that could have a material impact on the outcome of the case, the reviewing court will presume that the missing evidence supported the judgment of the trial court and resolve any doubts against the appellant." *Id.*

¶ 14 Further complicating matters, plaintiff did not file an appellee's brief. However, this court may decide the merits of a case if the record is simple and the issues can be easily decided without the aid of an appellee's brief. *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133, 345 N.E.2d 493, 495 (1976). Because we conclude we have the information necessary to reach a decision on the merits, and the issues are simple and easily decided, we will address defendant's claims on appeal despite the lack of an appellee's brief.

¶ 15 The record suggests the contractual relationship between the parties broke down prior to plaintiff substantially performing his portion of the contract. Nevertheless, a contractor's failure to fulfill his obligation under the contract does not necessarily preclude him from any recovery. Where a contractor fails to substantially perform a contract, the contractor is entitled to recover under the theory of *quantum meruit*. *Weydert Homes, Inc. v. Kammes*, 395 Ill. App. 3d 512, 522, 917 N.E.2d 64, 73 (2009). That is, the contractor can recover reasonable compensation for the work completed minus any damages caused by the breach. *M.J. Oldenstedt Plumbing Co., Inc. v. Kmart Corp.*, 257 Ill. App. 3d 759, 767-68, 629 N.E.2d 214, 220 (1994). "A party seeking recovery on a *quantum meruit* theory must demonstrate the performance of services by the party, the conferral of the benefit of those services on the party from whom recovery is sought, and the unjustness of the latter party's retention of the benefit in the absence of any compensation." *Carlton at the Lake, Inc. v. Barber*, 401 Ill. App. 3d 528, 534, 928 N.E.2d 1266, 1272 (2010). We will not overturn the trial court's judgment following a bench trial unless it is against the manifest weight of the evidence. *Law Offices of Colleen M. McLaughlin v. First Star Financial Corp.*, 2011 IL App (1st) 101849, ¶ 43, 963 N.E.2d 968.

¶ 16 Here, plaintiff did not seek the full amount of the contract. Rather, after terminating the contract, he sought only the cost of material and labor for completing the siding and bathroom projects, a total of \$5,245. Attached to his complaint was a list of those costs. Defendant does not deny plaintiff completed work on the siding and bathroom but contends the work was poorly done and would require another contractor to fix it. At trial, however, the record before us indicates the only evidence defendant presented regarding damages was a \$485 bill for repairing gaps in the bathtub. She had the opportunity to present further evidence of damages but it appears she simply failed to do so. This is highlighted by defendant's motion to reconsider, wherein she asserted her failure to present additional evidence was due to her inexperience and nerves. A party, even one who is *pro se*, is expected to be prepared for court. *Steinbrecher v. Steinbrecher*, 197 Ill. 2d 514, 528, 759 N.E.2d 509, 517 (2001) ("*Pro se* litigants are presumed to have full knowledge of applicable court rules and procedures \*\*\*."). By presenting evidence of only \$485 in damages, defendant would be unjustly enriched if she received a benefit of a new bathroom and siding without compensating plaintiff for both his labor and supplies.

¶ 17 Accordingly, we conclude the trial court's decision to award plaintiff \$4,760 plus costs was not against the manifest weight of the evidence.

¶ 18 III. CONCLUSION

¶ 19 For the foregoing reasons, we affirm the trial court's judgment.

¶ 20 Affirmed.