

IN THE SUPREME COURT OF THE STATE OF NEVADA

KERALA PROPERTIES, INC.,
Appellant,
vs.
BRUCE FAMILIAN,
Respondent.

No. 41235

FILED

DEC 03 2004

ORDER OF REVERSAL AND REMAND

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is an appeal from a district court judgment awarding contract damages. Eighth Judicial District Court, Clark County; Michael L. Douglas, Judge.

This is appellant Kerala Properties, Inc.'s third appeal to this court. In the second appeal, we reversed the district court's judgment granting respondent, Bruce Familian, specific performance, and remanded the matter for another trial restricted to Familian's claim for damages. More particularly, we stated:

The measure of damages should include Familian's losses in reliance on the contract, such as expenses incurred in the bid process and escrow expenses. Additionally, Familian may recover attorney's fees, as provided by the contract, and prejudgment interest as authorized by statute.

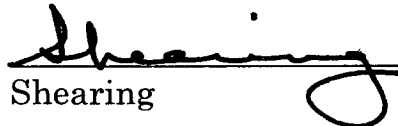
Based on the evidence presented at an evidentiary hearing, the district court awarded damages as follows:


\$ 78,795.91	-	property development expenses
183,449.75	-	attorney's fees
1,838.13	-	court costs
335,047.96	-	loss based on property value increase
<u>49,045.85</u>	-	prejudgment interest
\$648,177.60		

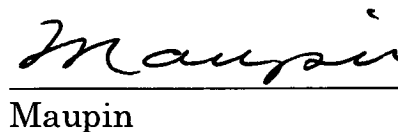
Because we rejected specific performance as a remedy, and because we limited the scope of recoverable damages, the district court's damage award violated our second order of remand. That order in effect rendered the contract unenforceable and eliminated property valuation and projected costs of improvements as issues in the case. Accordingly, we reverse and remand this matter for entry of judgment in the amount of \$264,083.79, plus prejudgment interest based upon that principal amount.¹

Therefore, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

 C.J.
Shearing

 J.
Rose

 J.
Maupin

¹The principle amount is based upon elimination of the losses based upon property value increases. The calculation of damages is therefore based upon the following figures:

\$ 78,795.91	-	property development expenses
183,449.75	-	attorney's fees
<u>1,838.13</u>	-	court costs
\$264,083.79		

cc: Eighth Judicial District Court Dept. 11, District Judge
William L. McGimsey
Lionel Sawyer & Collins/Las Vegas
Clark County Clerk