

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

ROY GEORGE et al.,

Plaintiffs and Respondents,

v.

DOUG TIRRI,

Defendant and Appellant.

C064412

(Super. Ct. No. 163993)

ORDER MODIFYING
OPINION
[NO CHANGE IN
JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on January 23, 2013, be modified as follows:

1. Delete the first paragraph on page one and replace with the following paragraph:

The trial court found defendants Doug Tirri and his former spouse, Joann Tirri, liable for fraud in failing to disclose to plaintiffs Roy and Jennifer George that the home they sold to them was not constructed with required permits and was defective. Only Mr. Tirri appeals from the judgment. He claims the trial court committed evidentiary errors,

errors in awarding damages, and that it was biased. Plaintiffs request we impose sanctions for a frivolous appeal. We conclude none of defendant's arguments has merit and we affirm the judgment. We also deny plaintiffs' request for sanctions.

2. Delete the second full paragraph on page four and replace with the following paragraph:

Defendant contends the trial court erred when it admitted valuation testimony from expert witnesses plaintiffs had not adequately disclosed, and from plaintiff Roy George. We conclude the trial court did not abuse its discretion in admitting the testimony because it could conclude plaintiffs did not unreasonably fail to comply with the statutory disclosure requirements, and because George could testify as a percipient witness as to value. Even if the trial court erred, however, the error was not prejudicial, as the court did not rely upon the expert testimony.

This modification does not affect the judgment.

THE COURT:

NICHOLSON, Acting P. J.

BUTZ, J.

MAURO, J.