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This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2590-20**

**COARC CO. ELECTRICAL
CONTRACTORS,**

Plaintiff-Appellant,

v.

**SANZARI ASPHALT
MAINTENANCE, LLC,**

Defendant-Respondent.

Submitted March 14, 2022 – Decided May 16, 2022

Before Judges Sabatino and Rothstadt.

On appeal from the Superior Court of New Jersey, Law
Division, Morris County, Docket No. L-2179-19.

Hedinger & Lawless, LLC, attorneys for appellant
(Robert T. Lawless, on the brief).

Respondent has not filed a brief.

PER CURIAM

Plaintiff Coarc Co. Electrical Contractors appeals from the Law Division's May 13, 2021 final judgment awarding plaintiff contract damages in the amount of \$17,880 against defendant Sanzari Asphalt Maintenance, LLC, but denying plaintiff's claims for attorney fees and interest under New Jersey's Prompt Payment Act, N.J.S.A. 2A:30A-1 to -2. The trial court denied the award after concluding that plaintiff was aware, through conversations between the parties, that there was a dispute over the amount of its invoices, even though defendant never challenged any of them in writing.

On appeal, plaintiff argues the trial court erred by ignoring the plain language of the Act that required an award of attorney fees and interest if plaintiff prevailed. We agree.

The salient facts developed at the bench trial in this action are summarized as follows. Plaintiff performed electrical work for defendant as a contractor pursuant to a series of verbal agreements between the two. As to the projects that formed the basis of plaintiff's complaint, for two of them, plaintiff was to be paid on a time and material basis, and for a third, payment was to be at a fixed labor rate plus materials that were to be billed at a 20% mark-up. There was no cap on the amount being charged for labor or materials.

After plaintiff performed its services, it sent invoices to defendant in the Fall of 2017. Defendant claimed it did not receive the invoices until December 2018. It was undisputed that, whenever it received them, defendant did not communicate in writing to plaintiff any objection to the charges within the 20 days of its receipt of the invoices or even later.

Defendant maintained that it objected to the bills, arguing that the parties had agreed to an \$18,000 cap for the work on one project, that it was never given an invoice until a year and a half later, and that plaintiff improperly raised its labor rate from \$50 (the rate on a previous job) to \$80. However, it was undisputed that defendant never tendered full payment of the portion of the amount claimed that was not in dispute.

Thereafter, on October 9, 2019, plaintiff filed this action, alleging breach of contract, quantum meruit, and for relief under the Act. The complaint sought \$22,640 for the electrical work it performed for defendant, and it demanded an award of attorney fees and interest under the Act. Defendant filed a timely answer and the matter came before the trial court for a bench trial on May 3, 2021.

At the trial, only the parties' respective principles testified. After considering the testimony and documents admitted into evidence, the trial court

issued an oral decision the same day, and, on May 13, 2021, entered final judgment. As to the claim for contract damages, the court ruled in favor of plaintiff but reduced the amount to \$17,880, giving defendant certain credits. In doing so, the court rejected defendant's claim that the parties had agreed to a cap on the amount plaintiff was to charge for the work, but it made an adjustment to the hourly rate charge billed by plaintiff.

Although it found in plaintiff's favor on the contract claim, the trial court rejected plaintiff's claims under the Act for attorney fees and interest, finding that it was "very clear from various conversations" "that the defendant did not agree to pay the numbers that [plaintiff] was asking for," there were "late invoices provided," and "no clear demand until somewhat later." This appeal followed.

In an appeal from a bench trial, our "review of a trial court's fact-finding function is limited." Seidman v. Clifton Sav. Bank, S.L.A., 205 N.J. 150, 169 (2011) (quoting Cesare v. Cesare, 154 N.J. 394, 411 (1998)). The factual findings and legal conclusions of the trial court are not disturbed unless the reviewing court is "convinced that they are so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the interests of justice." In re Trust Created by Agreement Dated Dec.

20, 1961, ex rel Johnson, 194 N.J. 276, 284 (2008) (quoting Rova Farms Resort, Inc. v. Invs. Ins. Co. of Am., 65 N.J. 474, 484 (1974)). We owe no deference, however, to a trial court's interpretation of the law and the legal consequences that flow from established facts. Gallenthin Realty Dev., Inc. v. Borough of Paulsboro, 191 N.J. 344, 358 (2007).

We begin our review by turning to the language of the Act. It is beyond cavil that the Act specifically makes an award of attorney fees and interest mandatory to a prevailing party. The relevant portion of the Act makes that clear. It states that, "In any civil action brought to collect payments pursuant to this section . . . the prevailing party shall be awarded reasonable costs and attorney fees." N.J.S.A. 2A:30A-2(f). The Act contains equally unambiguous language about the award of interest. See N.J.S.A. 2A:30A-2(c).

After the appeal in this matter was filed, in September 2021, we issued our opinion in JHC Indus. Servs., LLC v. Centurion Cos., Inc., 469 N.J. Super. 306 (App. Div. 2021), addressing an award of attorney fees under the Act. There we confirmed the requirements of the Act. We stated that the Act "is a fee-shifting statute that makes an award of 'reasonable costs and attorney fees' mandatory to a prevailing party." Id. at 309 (quoting N.J.S.A. 2A:30A-2(f)). We concluded that the attorney fee provision's "clear purpose" was "to ensure

that subcontractors are fully and promptly paid for their work, [so] a mandatory award of reasonable costs and attorney fees is necessary to vindicate the Act's salutary purposes." Ibid. There, we reversed the trial court's award of attorney fees because it "impos[ed] a proportionality requirement where none exists" in an award of attorney fees under the Act. Ibid.

Here, the trial court also imposed an exception to the Act by denying plaintiff's claim because plaintiff was aware through conversations with defendant there was dispute about plaintiff's invoices, bona fide or not. There is no such exception in the Act.

Once the trial court determined that plaintiff was entitled to damages and that defendant never complied with the Act's requirement to articulate in writing, within twenty days of its receipt of the invoices, its reasons for not paying, attorney fees and interest must have been awarded. As we explained in JHC Industrial Services, LLC, "[c]ourts are simply not free to ignore the clear intent of the Legislature by failing to enforce a plainly written statutory provision such as the one at issue here, by imposing a limitation not found in the text." Id. at 315.

We are, therefore, constrained to reverse the trial court's denial of attorney fees and interest awards under the Act and to remand for the entry of amended

judgment making the appropriate award under the Act, after consideration of any further submissions to be made by the parties in the trial court's discretion and in accordance with our rules. See R. 4:42-9.

Reversed and remanded for entry of an amended judgment, awarding attorney fees and interest. We do not retain jurisdiction.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION