

Bond Case Briefs

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NSH Corporation v. City of Calera

Supreme Court of Alabama - March 22, 2024 - So.3d - 2024 WL 1223810

City brought breach-of-contract action against building company that had purchased and built on lots in bankrupt residential development project, alleging that company's failure to finish the development's roads or have the bank that had financed the development finish them breached the three-way post-bankruptcy contract between the company, the city, and the bank, pursuant to which the bank was to finish the development's roads and the company was to pay the costs of completing the roads insofar as those costs exceeded \$58,000.

After a bench trial, the Circuit Court entered judgment for the city and awarded it damages. Company appealed.

The Supreme Court held that:

- Adequate consideration supported the contract, but
- Building company's failure to respond to city's letter asking company to coordinate with bank to have development's roads completed did not constitute a breach of company's payment obligation under the contract.

Adequate consideration supported three-way contract between city, bank that had financed residential development project that eventually went bankrupt, and building company that had purchased and built on lots in the project following the bankruptcy, which was a contract that called for bank to finish the development's roads and that called for building company to pay the costs of completing the roads insofar as those costs exceeded \$58,000; city had agreed to issue building permits in exchange for building company's promise to pay, and despite argument that such a promise was illusory, there was no showing that any law required city to issue building permits to company.

Failure by building company, which had purchased and built on lots in bankrupt residential development project, to respond to city's letter asking company to coordinate with bank, which had financed project, to have development's roads completed did not constitute a breach of company's payment obligation under three-way contract between company, city, and bank, pursuant to which bank was to finish development's roads and company was to pay costs of completing roads insofar as those costs exceeded \$58,000; despite argument that letter was a written demand for company to pay for road work, neither the letter nor any communications leading up to it indicated what the costs were.