

Attorney No. 44899

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, LAW DIVISION

FILED-2
2009 APR -1 AM 10:45

SUJITH SUNDARARAJ and JOYCE)
SUNDARARAJ,)
)
Plaintiff,)
)
v.)
YAROSLAV KOT)
)
Defendant.)

No.

2009L003831
CALENDAR/ROOM 5
TIME 00:00
Breach of Contract

COMPLAINT

NOW COMES Plaintiffs SUJITH SUNDARARAJ and JOYCE SUNDARARAJ (collectively "SUNDARARAJ Plaintiffs"), by their attorneys, OSHANA LAW and states the following against Defendant YAROSLAV KOT ("KOT"):

ALLEGATIONS COMMON TO ALL COUNTS

SUMMARY OF THE COMPLAINT

1. SUJITH SUNDARARAJ and JOYCE SUNDARARAJ are seeking to recover damages incurred as a result of improper workmanship of their family's home.

THE PARTIES

2. SUJITH SUNDARARAJ and JOYCE SUNDARARAJ are Illinois residents and are the owners of the single family home located at 1516 West Erie, Chicago, (the "Property"). At all relevant times, SUJITH SUNDARARAJ and JOYCE SUNDARARAJ and their child resided at the Property.

3. On information and belief, Defendant YAROSLAV KOT is an Illinois resident.

resident.

THE REAL ESTATE AGREEMENT

4. On August 8, 2005, the SUNDARARAJ Plaintiffs and YAROSLAV KOT entered into a Real Estate Agreement (the "Real Estate Agreement") whereby YAROSLAV KOT offered to build Plaintiffs a new home according to certain plans and specifications and in a workmanlike manner. (Exhibit A, ¶ 7).

5. The purchase price for the Property was Nine Hundred Thirty Thousand Dollars (\$930,000). A true and correct copy of the August 8, 2005 Real Estate Agreement is attached hereto as Exhibit A.

6. In acceptance of the terms of the Real Estate Agreement, the SUNDARARAJ Plaintiffs paid Forty-Six Thousand Five Hundred Dollars (\$46,500) as earnest money.

7. In October 2005, the SUNDARARAJ Plaintiffs closed on the Property, paying Defendant Kot the remaining balance of the purchase price and taking possession of the Property.

DEFECTS IN CONSTRUCTION

8. In 2006, when the Property was less than one (1) year old, the SUNDARARAJ Plaintiffs discovered a water stain on the second floor in the northwest corner of the kitchen wall and north bedroom.

9. Upon notification, Defendant's general contractor for the Property sent representatives to "tuckpoint" the Property.

10. Following the "tuckpoint" repair to the Property, the SUNDARARAJ Plaintiffs

were told that the defect was cured.

11. In 2007, when the Property was approximately one and a half (1 ½) years old, the SUNDARARAJ Plaintiffs discovered water leaking from the roof through to the ceiling of the second floor.

12. Upon notification, Defendant's general contractor arranged the repair of the Property's roof, costing the SUNDARARAJ Plaintiffs four hundred dollars (\$400.00).

13. In 2008, the SUNDARARAJ Plaintiffs discovered water dripping from the Property's second floor south bedroom window and from the Property's basement south bedroom wall.

14. After noticing a musty smell in multiple rooms of the Property, the SUNDARARAJ Plaintiffs had the Property evaluated by licensed and bonded professionals.

15. During the course of these evaluations, the following serious problems were detected with the construction of the Property:

- a. The mortar joints were not ground out and are marginal;
- b. There are no expansion joints on the sides;
- c. There are multiple broken glass blocks at the top and base of the glass block window located at the center of the east side;
- d. Pursuant to the Uniform Building Code, the top half of the glass block window should have been supported by a steel beam;
- e. The roof parapets do not have proper flashing under the stone parapet

caps;

- f. The stone parapet caps do not have proper caulk joints between;
- d. The caps at the southwest corner are loose and do not having flashing, allowing moisture into the walls and water damage to the inside of the rooms below;
- e. Top floor bedrooms, southwest and southeast living room walls have +20% moisture reading, using TRAMEX moisture meter;
- f. There is no vapor barrier behind the drywall for the exterior walls;
- g. The rear door drain has masonry defects; and
- h. There are elevated mold levels at the second floor master bedroom, second floor middle and south bedrooms, and the first floor eat-in kitchen. (Home Inspection attached as Exhibit B).

16. On November 5, 2008, the SUNDARARAJ Plaintiffs sent Defendant Kot a letter informing Defendant Kot of the serious defects and requesting that they be remedied by Defendant Kot, attached Exhibit C.

17. In response, on January 5, 2009, Defendant Kot's attorney sent the SUNDARARAJ Plaintiffs a letter disclaiming any liability but agreeing to remedy the "outdoor issues," attached Exhibit D.

18. On February 24, 2009, the SUNDARARAJ Plaintiffs sent Defendant Kot a letter requesting the details regarding the remedying of the Property and requested a response within one (1) week's time.

19. To date, Defendant Kot has failed to cooperate with the SUNDARARAJ Plaintiffs in remedying the defects.

20. As a direct and proximate result of Defendant Kot's defective work, mold has formed on the Property. The mold has created health risks to the SUNDARARAJ Plaintiffs and their child; depreciated the value of the Property; and, necessitated further remedial work.

COUNT I

BREACH OF CONTRACT

21. The SUNDARARAJ Plaintiffs reallege and incorporate paragraphs 1 through 20 of this Complaint as though fully set forth herein.

22. The SUNDARARAJ Plaintiffs paid to Defendant Kot the sum of \$940,000 for the Property and has otherwise fully performed their obligations under the Real Estate Agreement.

23. On information and belief, Defendant Kot failed to construct the Property according to the plans and specifications required by the Real Estate Agreement.

24. On information and belief, Defendant Kot failed to construct the Property in a workmanlike manner.

25. Despite repeated requests by the SUNDARARAJ Plaintiffs and their attorneys, Defendant Kot has refused to repair the Property's serious defects resulting from Defendant Kot's breaches.

26. As a result of Defendant Kot's breaches as set forth above, the SUNDARARAJ Plaintiffs have been unable to fully enjoy the Property and have been exposed to health risks because of mold that has formed on the Property, as a result of Defendant Kot's faulty work.

27. After having the Property offered for sale for nine (9) months, the SUNDARARAJ Plaintiffs were unable to sell the Property and forced to take it off the market, as a result of Defendant Kot's faulty work.

28. Upon information and belief, prospective purchasers did not purchase the Property because of the musty odor of the home.

29. Upon information and belief, the musty odor complained of by prospective purchasers is the result of the presence of mold in the Property.

30. The presence of mold on the Property is a product of Defendant Kot's faulty work.

31. The SUNDARARAJ Plaintiffs are currently still unable to sell the Property.

32. As a result, the SUNDARARAJ Plaintiffs have suffered damages, including but not limited to the following:

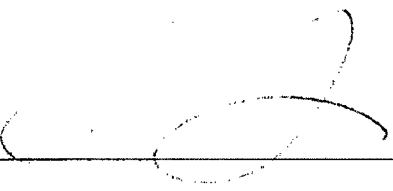
- a. Costs incurred to expose the existence of the latent defects in the Property;
- b. Cost incurred to discover and correct the latent defective conditions in the Property; and,
- c. Costs incurred in carrying the Property, including principal, interest, taxes and insurance, as a result of being unable to sell the Property due to mold presence.

WHEREFORE, SUNDARARAJ Plaintiffs prays for judgment to enter in their favor and against Defendant Kot in an amount in excess of \$146,400, plus the principal, interest, taxes and insurance incurred in carrying the costs of the Property, court costs and any other relief this Court deems appropriate.

Respectfully submitted,

SUJITH SUNDARARAJ and JOYCE SUNDARARAJ,
Plaintiffs,

BY: _____



One of their Attorneys

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Dated: March 30, 2009