

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )

IN THE COURT OF COMMON PLEAS  
 C. A. FILE #84-CP-23-2634

CHARLES S. REYNER, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JIMMY FINLEY BUILDERS, )  
 INC., )  
 )  
 Defendant. )

ORDER

FILED CLERK OF COURT  
 GREENVILLE, CO. S. C.  
 JAN 14 2 29 PM '85  
 MARSH W. MATLOS

This matter is before the Court upon motion of the plaintiff to dismiss the counterclaim filed by the defendant. A hearing was scheduled and held on 19 December 1984 at which time the plaintiff was represented by Clifford F. Gaddy, Jr., Esquire, of the law firm of Foster & Mitchell and the defendant was represented by Joseph G. Wright, III, Esquire, of the law firm of Wright & Trammell.

Based upon the pleadings, affidavit, memorandum and arguments of counsel, it appears that this action arose out of a contract to build a residence. The plaintiff is the homeowner and the defendant is the builder. The plaintiff filed an action alleging breach of contract and the defendant duly answered and counterclaimed for foreclosure of a mechanic's lien.

The plaintiff has moved the Court to dismiss the counterclaim pursuant to §29-5-90 of the 1976 Code of Laws of South Carolina, as amended, on two grounds:

1. The Mechanic's Lien (Statement of Account) was not filed in the R.M.C. Office in Greenville County

*J. P. J.*