

BEN JOHNSON HOMES, INC., a Georgia Corporation, and C. BENJAMIN JOHNSON, JR., individually v. CAROL FREES WATKINS

No. 148A01

(Filed 18 December 2001)

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 142 N.C. App. 162, 541 S.E.2d 769 (2001), affirming in part and reversing and remanding in part an order for summary judgment entered 1 February 2000 by Beal, J., in Superior Court, Transylvania County. On 16 August 2001, the Supreme Court granted discretionary review of additional issues. Heard in the Supreme Court 14 November 2001.

*William H. Coward for plaintiff-appellants.*

*Cloninger, Lindsay, Hensley & Searson, PLLC, by John C. Cloninger, for defendant-appellee.*

PER CURIAM.

Justice MARTIN did not participate in the consideration or decision of this case. The remaining members of this Court were equally divided, with three members voting to affirm the decision of the Court of Appeals and three members voting to reverse. Accordingly, the decision of the Court of Appeals is left undisturbed and stands without precedential value. See *Williamson v. Bullington*, 353 N.C. 363, 544 S.E.2d 221 (2001); *Reese v. Barbee*, 350 N.C. 60, 510 S.E.2d 374 (1999).

AFFIRMED.