

FILED
FEB 28 1978
CLERK SUPREME COURT

240

IN THE COURT OF APPEALS OF IOWA

CLERK SUPREME COURT

STROH CORPORATION,)
)
 Appellant,)
)
 v.)
)
 COMMERCIAL INVESTMENT)
 COMPANY OF IOWA, INC.,)
)
 Appellee.)

Filed February 28, 1978

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2-56514

Appeal from Polk District Court - J. P. Denato, Judge.

Subcontractor appeals from judgment denying his claim based on implied contract.

Affirmed.

Joseph B. Joyce, of Des Moines, for appellant.

Submitted to Allbee, C.J., Donielson, Snell and Carter, JJ. Oxberger, J., takes no part.

PER CURIAM

This appeal arises out of an attempt by a subcontractor, plaintiff Stroh Corporation, to collect payment for materials supplied and work done on property leased by defendant Commercial Investment Co. of Iowa, Inc. Plaintiff claimed to have perfected a mechanic's lien, but apparently failed to exercise its available remedy; it did not foreclose on that lien. This action was pleaded on the theories of contract (an account stated which plaintiff expressly abandoned at trial), quantum meruit and unjust enrichment. Trial court entered judgment in defendant's favor. The discussion and holding in *Guldberg v. Greenfield*, 259 Iowa 873, 146 N.W.2d 298 (1966) indicates that trial court's resolution was correct.

AFFIRMED.