

LEFTWICH *v.* CASH LUMBER COMPANY.

4-8740

217 S. W. 2d 357

Opinion delivered February 14, 1949.

LIENS—MATERIALMEN'S LIENS.—In appellee's action to establish a lien for lumber furnished to appellant, the chancellor's finding on conflicting evidence that he was entitled to a lien is supported by a preponderance of the evidence.

Appeal from Crawford Chancery Court; *C. M. Wofford*, Chancellor; affirmed.

Rains & Rains, for appellant.

Daily & Woods, for appellee.

GEORGE ROSE SMITH, J. Appellee brought this action to establish a materialman's lien for \$103.86, the defense being that part of the lumber was never delivered and part was rejected as defective. One of appellee's officers testified to the delivery and acceptance of the material, while appellant gave his version of the transaction.

Three carpenters who worked on appellant's house were called to corroborate his evidence, but they knew only that some lumber had been rejected. They were unable to say that the material refused had been supplied by appellee, while appellant admitted buying lumber from several other dealers. Thus the question narrowed down to one of credibility as between the uncorroborated testimony of the litigants. In this situation we are guided by the chancellor's conclusion. *Souter v. Witt*, 87 Ark. 593, 113 S. W. 800, 128 Am. St. Rep. 40. Affirmed.
