

in connection with his application for pretended reinstatement would affect the validity of his certificate, for, if there was no suspension, there was no reinstatement.

It was argued for defendants, however, that deceased recognized his suspension in his application for reinstatement, and plaintiffs were, therefore, estopped from asserting that there was no suspension or forfeiture.

As I find that there was no forfeiture, I think plaintiffs are not estopped from so asserting, notwithstanding that in ignorance of his rights the deceased yielded to defendants' assertion that his certificate had lapsed, and adopted their suggestion to sign an application for reinstatement, in which it is recited that his membership and the certificate had expired.

Then, as to whether there was a forfeiture for the non-payment of the \$1.50 on 15th May, 1902, I am of opinion that there was not. At that time defendants had possession of the certificate, and were insisting that all rights thereunder had been cancelled by the release obtained by their agent, and they are now, I think, estopped from saying, for the purposes of this defence, that it was, nevertheless, in existence, but forfeitable for non-payment of the half-yearly expense fee.

It would be imposing a great injustice on plaintiffs to allow defendants to avail themselves of the default to which the wrongful act of their agent, adopted by them, contributed, for it must be assumed that if the insured had not been induced to surrender his certificate, the half-yearly dues would have been paid as theretofore.

See *Meyer v. Knickerbocker Ins. Co.*, 73 N. Y. 516; *Whitehead v. New York Life Ins. Co.*, 102 N. Y. 143; *Ætna Ins. Co. v. Curley*, 47 S. W. Repr. 586; *Ins. Co. v. Egleston*, 96 U. S. 572; *Mutual Reserve Life Ins. Co. v. Taylor*, 99 Va. 208; *Covenant Mutual Ins. Co. v. Kentner*, 188 Ill. 453; *Bacon on Benefit Societies*, 3rd ed., secs. 352-377.

Judgment will therefore be in favour of plaintiffs for \$2,000 and interest, less the \$500 paid into Court, which will be paid out to them, and costs of action, including costs of issue tried by Street, J.