

over the same with any accrued interest to the province, and thereafter be free from liability, in respect thereof.

*Held*, also, that until the principal sum was paid over the Dominion was liable for interest thereon at the rate of five per cent. per annum. Appeal dismissed with costs.

*Irving, K.C., Ritchie, K.C., and Shepley, K.C., for appellant. Newcombe, K.C., and Hogg, K.C., for respondent.*

Ont.]

VALIQUETTE v. FRASER.

[May 13.

*Negligence—Construction of building—Contract for construction—Collapse of wall—Building not completed—Vis major.*

*Held*, per DAVIES and MACLENNAN, JJ., that the owner of a building in course of construction owes to those whom he invites into it or upon it the duty of using reasonable care and skill in order to have the property and appliances upon it intended for use in the work fit for the purposes they are to be put to. Such duty is not discharged by the employment of a competent architect to prepare plans for the building and a competent contractor to attend to the work of construction.

Per IDINGTON, J.:—The fact that the building is in an unfinished state may render the obligation of the owner towards a workman employed upon it less onerous in law than it would be in the case of a completed structure.

Per DUFF, J.:—Does the rule governing the duty of occupiers respecting the safe condition of the premises apply without qualification where the structure is incomplete, and the invitee is engaged in completing it or fitting it for its intended use?

Per DAVIES and MACLENNAN, JJ.:—In the present case the failure to guard against the effect of a sudden storm of so violent and extraordinary a character that it could not have been expected, was not negligence for which the owner was liable.

Judgment of the Court of Appeal, 12 O.L.R. 4, and of the Divisional Court, 9 O.L.R. 57, affirmed. Appeal dismissed with costs.

*Lorne McDougall, Jr. for appellant. Shepley, K.C., and John Christie, for respondent.*