

as finally revised and completed, and apparently as afterwards signed. The building was then so far under way as to be above the joists of the first floor. . . .

The agreement was signed after 28th September, 1904. Plaintiffs agreed to erect a 5-storey and basement warehouse and office building in accordance with plans to be prepared by plaintiffs' architects to the satisfaction of both parties; the building to be in accordance with city by-laws, to be laid out and furnished in such manner, with the approval of plaintiffs, as is desired by defendants. . . . Plaintiffs were to proceed rapidly, complete with despatch, and rent to defendants for 5 years from date of completion. Defendants agreed to occupy when completed and to pay a rental upon the following basis: 4 per cent. on value of land, fixed at \$10,800; and 8 per cent. on total cost of construction, excavations, and architects' fees, as certified to by the architects; and to pay taxes; and a lease was to be entered into in accordance with that agreement. Then a special, and apparently a controlling, clause was inserted, that the building to be erected should be finished in as plain a manner as consistent with ordinary wear and tear and the uses for which it was intended, "the desire of both parties being to give the party of the second part the greatest amount of accommodation possible consistent with building a substantial, safe structure, with the approval of the parties of the first part, and in accordance with the requirements of the city by-laws and the needs of the party of the second part. The parties of the first part agree that they will not expend or authorize the expenditure upon the said building of a greater sum than \$21,000, without the consent of the party of the second part."

The building has been completed and at a cost greatly in excess of the \$21,000 named, and plaintiffs say they are entitled to get from defendants rent, so far as rent is governed by cost of construction, at the rate of 8 per cent. upon \$32,459.10.

Upon the evidence I find that plaintiffs and defendants are acting in perfect good faith, and have been all through in this matter. Plaintiffs have erected a building, at great expense, apparently admirably adapted for the purpose desired by defendants, but plaintiffs have, beyond question, been greatly misled or not kept fully advised by their architects. Plaintiffs were the builders. The architects were in