

father was satisfied with the listing having been made; but the proper conclusion from the evidence was, that, if he had been told that an exclusive authority to sell had been given and that the commission would be payable if the farm were sold, as it afterwards was, without the intervention of the respondents and not in consequence of their introducing the purchaser, he would not have acquiesced.

Norman Hisey swore that he went to the office of the respondents in order to ascertain whether the authority he had signed was an exclusive one; but the respondents contradicted this. The son testified that Holbrook told him that no commission would be payable to Wheeler & Holbrook (the respondents) if the farm were sold by his father; the respondent Holbrook denied that he had seen Norman Hisey after the document was signed until he came to the respondents' office in response to a letter from them requesting payment of the commission on the sale, which had then been made. The attention of the jury was not directed to this point, and it had not been passed upon. The proper conclusion was, that the testimony of Norman Hisey should be accepted.

Even if that conclusion was not warranted, there was no ratification of the son's act by the appellant. The most that he intended to ratify and did ratify was the listing of the farm with the respondents—which ordinarily means that the agent is to receive a commission in the event of a sale being effected through his instrumentality.

In order that a person may be deemed to have ratified an act done without his authority, it is necessary that, at the time of the ratification, he should have full knowledge of all the material circumstances under which the act was done, unless he intends to ratify the act, and take the risk, whatever the circumstances may have been; Bowstead on Agency, 5th ed., p. 57, and cases there cited; and of any such intention there was no evidence, nor could the inference properly be drawn that the appellant so intended.

All that the jury found was, that "Norman Hisey, after consulting his father, became his agent, therefore Abraham Hisey becomes responsible for commission." This was not a finding sufficient, in the circumstances, to warrant a verdict for the respondents against the appellant.

The plaintiffs cross-appealed against the defendant Norman Hisey, but no case on that footing was made in the pleadings. The judgment dismissing the action as against that defendant should stand, without prejudice to the respondents, if so advised,