

til he had inspected the work, and the matter stood over until March, 1901, when defendant telephoned plaintiffs that there was trouble at Cobden, and requested them to send their bill to the trustees. Plaintiffs replied that they "had been dealing with the committee through him," as they understood, and had no suspicion of any trouble, and informed defendant that they held him or the committee responsible for the work. The committee repudiated all responsibility, as they had let the contract to Simpson, and plaintiffs were not aware that the Simpson contract included this glass, but on the contrary were told by defendant that they would be paid by the committee direct. Simpson became insolvent in September, 1905, and assigned all moneys coming to him under the contract to a bank, to whom the payments were made by the committee, in part without the architect's certificate. Plaintiffs had in fact no contract, either with Simpson or the trustees, but furnished the glass at the request of defendant, supposing that he was authorized by the trustees to order it. The glass and work were accepted, but the trustees, having paid the assignee of the contractor in full for the contract, refused to pay plaintiffs.

The evidence of defendant conflicts somewhat with the facts as given by plaintiffs. The Judge has given effect to plaintiff's evidence, and I cannot say that he is wrong in so doing.

Upon the facts as offered by plaintiffs, I am of opinion that defendant has rendered himself liable. He invited the tender, held out that plaintiffs would be paid by the trustees, and, plaintiffs having acted in good faith and furnished the glass at his request, and the trustees not having authorized defendant to make them liable, rendered himself liable, on breach of the implied warranty, that he had such authority. I do not think the Statute of Limitations can help defendant, if at this late date he were allowed to plead it. It has, I think, no application to the present case. The goods were in fact furnished and accepted by all concerned; there is not and never was any dispute as to their quality. The whole difficulty has arisen by the architect taking upon himself to do that which he had no authority for doing, and, however hard it may be, he must suffer the consequence.

Appeal dismissed with costs.