

the contract, a plaintiff seeking to enforce it must be content to accept the most unfavourable construction if that is the way in which the defendant understood it at the time. Here, when the plaintiff asked for the stock, the deceased did not dispute his right to it, but merely disputed his right to get it then. He said, "I was not to give it until the property sold was paid for in full." The plaintiff grumbled, but acquiesced. No time had been mentioned, and both parties recognised what the deceased contended for as the meaning of the contract. This seems reasonable enough, as the deceased was transferring the shares in consideration that he would be profited by what the plaintiff would bring about, but until the property was paid for his gain was not assured. The plaintiff acquiesced. In the circumstances of this case—in the face of the attitude of the parties then and afterwards—could a Court say that the time claimed by the deceased was not a reasonable time? And, more than this, could the deceased, if alive, be allowed to say that that was not a reasonable time, and that, his declaration notwithstanding, the plaintiff was barred? I think not. The property was paid for on the 5th November, 1908.

But in any case I do not see how the statute applies. The plaintiff's counsel does not contend, and the defendants' counsel denies, that this can be regarded as a trust. All the same, I am of opinion that the deceased Curry was clearly a trustee for the plaintiff of ten of the twenty-five shares first allotted to him. They were partners in a joint adventure, and each was the agent of the other for certain purposes connected with it. The plaintiff was not acting for himself only, when he entered into the contract with the American company; he was, as the agreement says, representing others as well. Before anything was done at all, the plaintiff and the deceased had come together and were acting in unison.

The deceased was an active party throughout. If the transaction was carried through, he was to be handed twenty-five shares out of the company's first payment of stock, and fifteen of these were to be his property, ten being the property of the plaintiff. I see no difficulty in holding that the deceased was a trustee of these ten shares for the plaintiff. The shares are specific and ear-marked, as I said.

The plaintiff is entitled to have the contract specifically performed by delivery of ten shares of the twenty-five shares first allotted to the deceased or by delivery of the shares of the new