

1854.
Fuller
v.
Richmond.

Judgment

required the logs in question for the purposes of his trade. If these facts do not sufficiently appear in this case, I think the plaintiff should have an opportunity of proving them. Where these facts sufficiently appear I think the specific performance of such agreements should be compelled. Reason dictates that in all cases the parties to a contract should have the contract specifically performed, or relief in damages, at their option. This is the opinion of Mr. Justice *Story*—a high authority in these matters; and certainly the court should be ready to extend this remedy to every case which reasonably calls for its application: nor do I think that parties should, in cases of this description, be put to prove any additional facts to those I have mentioned, in order to entitle themselves to relief. It seems reasonable, too, that whenever it can be ascertained that logs have been manufactured in pursuance of the agreement (and such will be the presumption where no other agreement is shewn to have existed), the agreement should attach upon them and bind them specifically so soon as they are manufactured. It is clearly proved in this case that an agreement was made between the plaintiff and the defendants *Richmond* and *Carl* that they, the defendants, should manufacture for the plaintiff 5000 saw logs, to be delivered at the mouth of the river Trent, in consideration of £1000 to be paid to the defendants *Richmond* and *Carl*, at the times agreed upon. It is also proved that 5000 saw-logs, or about that number, were manufactured in pursuance of this agreement. It is not pretended that *Richmond* and *Carl* had entered into any other such agreement; the logs are represented to the workmen and *Craig* and others as made for the plaintiff; they are impressed with his mark; the plaintiff performs his part of the agreement punctually. This appears from the defendants themselves.

Under these circumstances the logs, when half way down the river, are sold and delivered by the defendants

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