

dition precedent to the right of the appellant to claim payment for his work.

The appellant is not, in our opinion, entitled to recover even if the production of the architect's certificate is not a condition precedent to his right to be paid. It was by the contract a condition precedent to the right of the appellant to be paid the contract price that the covenants, conditions and agreements of the contract should have been in all things strictly kept and performed by him, and that the work should have been done conformably to the plans, specifications, and details prepared by the architect and in all things to his entire satisfaction, and neither of these conditions has been performed by him.

It is open to grave question whether the production by the appellant of the architect's certificate is necessary. The provision of the contract as to this is incomplete. The words "as in the conditions provided" qualify the preceding words "but no payment to be made without the production of the architect's certificate." There is, as I have said, no other provision as to it in the contract, and no other document to which the contract refers, containing any provision as to it; and it may be, therefore, that the provision of the contract which the respondents invoke has no effect. It is, however, unnecessary, in the view we take, to decide that question.

The claim for extra work and materials, so far as it is in question on the appeal, is for work done and materials supplied owing to an increase in the size of the building. The contract provides that no claim for any work in addition to that shewn in the drawings or mentioned in the specifications unless it was sanctioned by the architect in writing previous to its having been done, shall be allowed.

There was no written sanction of the architect for the doing of the extra work and supplying the extra materials, payment for the value of which the appellant claims, and the right to recover it is therefore excluded by the contract.

The work was done and the materials were supplied upon the verbal order of the architect and there is no just reason why the appellant should not be paid for it.

If the respondent company stands upon its strict right and will not pay for them it will be proper, in the exercise of our discretion as to the costs, to deprive them of the costs of the appeal.