

It was suggested that, even if the contract of purchase was *intra vires* the company, it was *ultra vires* the directors and president and general manager of the company. But the contract was made under the seal of the company, was executed by the delivery of the machinery, and was made by and with the president and general manager of the company, and it was not made out or found that the plaintiff acted in bad faith or had notice or knowledge that the contract was beyond the objects of the company as expressed in the charter; and, because the contract was under seal and was an executed contract, and because the president and general manager had apparent authority to execute it and make the note sued on, he had, so far as the plaintiff was concerned, actual authority to do so: *National Malleable Castings Co. v. Smith's Falls Malleable Castings Co.* (1907), 14 O.L.R. 22, 30; *Biggerstaff v. Rowatt's Wharf Limited*, [1896] 2 Ch. 93; *County of Gloucester Bank v. Rudry Merthyr Steam and House Coal Colliery Co.*, [1895] 1 Ch. 629,

The appeal should be dismissed with costs.

LENNOX, J., was also of opinion that the appeal should be dismissed. He read a short judgment to the same effect as that of FERGUSON, J.A.

ROSE, J., was also of the opinion that the appeal should be dismissed, but upon another ground. He read a judgment in which he referred to sec. 32 (1) (a) and (i) of the Ontario Companies Act, defining the powers of a company incorporated under that Act, which included the power to purchase machinery and plant which might be thought necessary or convenient for the purposes of the business of the company. Even if the plaintiff was to be assumed to have known the contents of the letters patent of incorporation, there was no evidence that he had knowledge of any facts, if there were any, which ought to have led him to suppose that the company were not in fact exercising, as incidental to the main purpose of their business, that power which they appeared to be exercising through their president and manager.

MEREDITH, C.J.C.P., read a dissenting judgment. He was of opinion that the appeal should be allowed and the action dismissed as against the appellants.

*Appeal dismissed; MEREDITH, C.J.C.P., dissenting.*