

party from succeeding upon his own uncontradicted testimony. . . . [Reference to *In re Hodgson*, *Beckett v. Ramsdale*, 31 Ch. D. 177, 183, and *Rawlinson v. Scholes*, 79 L. T. 350.]

The law of this province is only different in the cases, such as in actions by or against the representatives of deceased persons, where there is a statutory provision requiring corroboration as to matters which occurred in the lifetime of the deceased.

In the present case there are circumstances tending to corroborate and support defendant's statements, but at all events there are no facts or circumstances of such countervailing weight as to render it proper not to give effect to the Chancellor's conviction.

It was also urged that plaintiffs were not bound by the representations of their agent. He was undoubtedly their agent to solicit subscriptions for shares, and plaintiffs are now seeking to take the benefit of what he did in the matter of procuring defendant's subscription. It is clear law that if an agent, at the time a contract is entered into, makes any representation or declaration touching the subject matter, it is the representation or declaration of his principal, and it is now settled that a principal cannot enforce a contract induced by the material representations of the agent who negotiates it, whether such representations are fraudulent or not: *Kerr on Frauds*, 3rd ed., p. 83 and cases. Here the representations were material, and whether made in good faith and with a belief in their certain fulfilment or not, they cannot be ignored or repudiated by plaintiffs.

It was also argued that defendant's case upon the pleadings, as well as upon the evidence, is, that the contract was a conditional contract or agreement, and that the contract upon which plaintiffs are suing being in writing, and on its face unconditional, evidence to vary it was inadmissible as against the provisions of the Statute of Frauds. If the case is to be viewed as a case of a contract induced by material representations which were untrue, the argument would be inapplicable. But, regarding the case from the other standpoint, the answer to the argument seems to be, that where contemporaneously with a written agreement there is an oral agreement that the written agreement is not to take effect until some other event happens, oral evidence is admissible to prove the contemporaneous agreement. . . .