

patent dated the 7th August, 1904, and the 25 shares were allotted to the deceased in May, 1905. Subsequently the company was reorganised under a Dominion charter, and its capital stock was increased from \$125,000 to \$1,000,000, and each shareholder received six shares of the capital stock of the reorganised company for each share held by him in the Ontario company.

The appellants, besides denying the alleged agreement, plead as a defence to the action the Statute of Limitations, and sec. 12 of the Statute of Frauds, 9 Edw. VII. ch. 43.

The learned trial Judge found that the agreement was proved; and there was evidence sufficient to support his finding. It was contended at the trial, and again on the argument before us, that, if any agreement was proved, it was not an agreement to transfer to the respondent 10 out of the 25 shares which were allotted to the deceased in part payment of the purchase-money of the waggon company's land but to transfer \$1,000 worth of the stock, which the deceased might have satisfied by transferring any 10 shares of the capital stock.

Although, in testifying as to the terms of the agreement, the expression \$1,000 worth of stock was used by the respondent and his brother, who testified that he was present when the agreement was made, the effect of the testimony of both of them, taken as a whole, is, that what was to be transferred to the respondent was 10 of the 25 shares which the deceased was to receive as part payment of the purchase-money of the land.

As I have said, the proper conclusion upon the evidence is that the stock which the respondent was to receive was to be part of the 25 shares which the deceased was to receive, and that it was a sufficient number of these shares at par to represent \$1,000.

It was argued by the appellants that, assuming the agreement to have been proved, the respondent became entitled to have the 10 shares transferred to him so soon as the 25 shares were issued to the deceased. This view of the matter is not quite accurate. Where no time is fixed for the performance of a contract, the law is that it must be performed within a reasonable time, according to the circumstances; and that, in my opinion, was the obligation of the deceased.

It was also argued that the Statute of Limitations is a bar to the action, and that in any case the respondent has been guilty of such laches and delay as disentitle him to the relief which he seeks.