

This action was begun on 18th April and was brought to recover \$1,000 alleged to be due to plaintiff for his services as architect in connection with a building erected for defendants in city of Brantford.

It appears as well from the statement of claim (delivered 12th September), as from the affidavit of defendants' manager that Chapman and McGiffin were also employed on this work. Whether plaintiff was the principal, and the others were associated with him or *vice versa* cannot be now determined. Plaintiff asserted the former and defendants' manager the latter. It was admitted by both sides that before action defendants paid Chapman and McGiffin \$925. This was without plaintiff's consent.

Defendants admit being liable for a further sum of \$923.05, which amount with \$925 to 5% on \$36,961, which they said was the total cost of the building.

This balance was claimed by Chapman and McGiffin. Their claim was supported by a resolution of defendant company of 18th March, stating that "this board has no agreement nor arrangement with Mr. Barber (plaintiff), and that his connection with the proposition was a matter entirely between him and Chapman and McGiffin, and finally the board held Chapman and McGiffin responsible for results, and they were hereby urged to finish the work without delay."

This confirmed a letter of March 11th, of defendants' manager to Chapman and McGiffin to the same effect. It also said: "So far as Mr. Barber is concerned, if you choose to take the responsibility of taking the work out of his hands, the board will not interfere."

Defendants moved to be allowed to pay into Court the admitted balance and to have Chapman and McGiffin made defendants in this action instead of the company.

O. H. King, for the defendants' motion.

J. Grayson Smith, for the plaintiff.

G. H. Kilmer, K.C., for Chapman and McGiffin.

CARTWRIGHT, K.C., MASTER:—The case most akin to the present is *Re Scottish American & Rymal*, 14 O. W. R. 685, where the cases are perhaps sufficiently cited and considered; as well as in *Re Smith & Bennett*, 2 O. W. R. 399. Applying the principles to be deduced from the authorities, I do not think the motion can be granted.