$21,834.87 and $5,371.79, respectively, be vacated and discharged. The money being in this manner in the custody of the Court, the actions were on the 1st May, 1909, dismissed by consent as against the railway and elevator companies without costs, but without prejudice to the actions being proceeded with, tried, and disposed of, pursuant to the Mechanics' Lien Act, as against the remaining defendants, the Canadian Stewart Co. . .

But on the 5th May, 1909, the plaintiffs amended their statement of claim in a manner and to such a degree as to widen the scope and to a large extent change the whole complexion of the action. . . .

The learned District Court Judge came to the conclusion that no contract in writing ever existed between the plaintiffs and defendants; that the plaintiffs were not in default in any respect, and were entitled to be paid for their work upon a quantum meruit; and . . . he found them to be entitled to be paid by the defendants the sum of $20,265.04, with costs, and adjudged that the plaintiffs and the Union Bank were entitled to a lien upon the lands and premises in question, and upon the sum of $24,000 lodged in Court, for the amounts of their respective judgment debts and costs, and entitled to receive payment of the same out of the same; and the defendants' counterclaim was dismissed with costs. . . .

The first question is, whether the finding that there was never a contract in writing is correct. It is not disputed that the agreement of the 21st November, 1908, was duly executed by the parties. Upon its face it was a valid contract and binding upon the parties. But the learned Judge was of opinion that it did not express all the terms of the agreement between them, that their minds were not agreed upon the same thing and in the same sense, and that there was no contract. This conclusion does not appear to be supported by the evidence. . . . The contract must be considered as being an effectual one, binding all parties from the time of its execution. The plaintiffs were, therefore, bound to the execution of the work according to its terms and conditions, unless relieved from it by matters subsequently occurring. . . . The plaintiffs' attitude and conduct up to the time when they were notified that the work was to be taken out of their hands shew plainly that they considered the contract as still on foot, and that they were working under its terms. The remarks of Robinson, C.J., in Kesteven v. Gooderham, 20 U.C.R. 500, at p. 505, are instructive on this point.

If in respect of any of these matters the defendants had been guilty of deceit in inducing the plaintiffs to enter into a contract which, but for fraudulent representations made by the