

property passed out of the plaintiffs, or that in some way they became disentitled to the buggies—if they allege agency on the part of the local man Stephenson, they must prove it.

Failing the Act R. S. O. 1897 ch. 150, the defendants set up the supply to Stephenson of the oblong name plates as an estoppel, or as depriving the plaintiffs of their property under the provisions of R. S. O. 1897 ch. 149, as amended by 4 Edw. VII. ch. 10, sec. 37.

That the property is not thereby diverted is clear from the decision of the Court of Appeal in *Walker v. Hyman*, 1 A. R. 345. . . .

As to estoppel, the purchaser did not know of the existence of the name plate, and his conduct was not influenced by its presence. There consequently can be no estoppel: *Dominion Express Co. v. Maughan*, 21 O. L. R. 510; *Scarf v. Jardine*, 7 App. Cas. 345.

Then it was strongly urged that the Act of the plaintiffs in taking the assignment from Stephenson was a ratification of his sale. This cannot be; the sale was not made, and did not purport to be made, by Stephenson as an agent; and there can be no ratification of an act not purporting to be done for the party intended to be bound by an alleged subsequent ratification. And, had the plaintiffs taken the note knowing that it represented even in part the price of the buggies, and themselves enforced its payment, it might have been considered inequitable to allow them to have the price, even in part, of their buggies and also the buggies or their value in an action of trover. But this difficulty vanishes when the facts are made apparent—the note was the property of the Standard Bank, and the Standard Bank had a claim upon the note superior to that of Stephenson and the plaintiffs—all the plaintiffs did was to take a general assignment of the assets of Stephenson as a collateral security to their claim against him. This does not operate to estop the plaintiffs from asserting their property. And all difficulties arising from laches likewise disappear when the facts are examined.

I think judgment should have been entered in the County Court for \$70, and the appeal should be allowed to that extent. Under all the circumstances, there should be no costs in the County Court—but, as the plaintiffs had to come to this Court to have their rights declared, they should have their costs of this appeal.