health caused her to pass much of her time in bed. Her language and demeanour to Dr. Soday convinced him that she fully realised the nature of her disease; and it was impossible for her, when signing the application and making the answers, to have believed that she was then enjoying good health . . . . To her own knowledge, she did not usually enjoy good health; and at the time of the application it was not good. Her statement that she was then in perfect health—meaning thereby in reasonably good health—was in fact untrue.

Thus she made material misrepresentations and concealed material facts from the company as to the true condition of her health. It was material that the company should have known the facts; and the misrepresentation and suppression of facts thus found render the policy void: Jordan v. Provincial Provident Institution, 28 S.C.R. 554; Von Lindenhaugh v. Desborough, 3 Moo. & Ry. 45.

I further find that the plaintiff, the beneficiary under the policy, was a party to the misrepresentations and concealments on the part of the deceased. In June, 1910, he was given to understand by Dr. Soday that his wife was then suffering from consumption, and was in such an advanced state that she would not live longer than nine months. He knew this when he took her to the insurance agent to effect the policy of insurance in question, and he paid the premium for that policy with his own funds, knowing that it was being effected for his benefit. . . .

In the witness-box he pretended that the idea of effecting insurance on the wife's life originated with her, and was carried out at her instance. I am unable to accept his testimony on the point. Whether or not the moral guilt attaches to both of them in equal degree is immaterial. The husband is here claiming the benefit of the policy, and is affected by his own conduct as well as hers. He knew, when the policy was effected, that his wife was dying of consumption, and he must have been aware that, if that fact were known by the company, the policy would not have been issued. He allowed them to remain in ignorance of the facts, and paid the premium, thereby identifying himself with the transaction. His own conduct is, I consider, sufficient to void the policy. He was a party to the fraud which procured its being issued, and cannot be allowed to profit by his own wrong.

I, therefore, think this action should be dismissed with costs.