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BRENNAN AND WHALE v. NELLIGAN AND NELLIGAN

*Architects—Liability to client—Installation of defective heating system—Reliance on heating contractor—Duty of architect to investigate and exercise own judgment.*

APPEAL by the defendants from a judgment of the Court of Appeal for Ontario (1) affirming the judgment of McRuer C.J.H.C. (2).

*J. T. DesBrisay and P. Genest*, for the appellants.

*J. P. Nelligan (in person) and R. J. Colonnier*, for the respondents.

The judgment of the Court was delivered by

THE CHIEF JUSTICE (orally):—It is unnecessary to call upon the respondents. On the particular facts of this case we all agree with the reasons of the Court of Appeal and say nothing about the reasons of the trial judge, as to which Mr. DesBrisay raised some question. The appeal is dismissed with costs.

We agree with the Court of Appeal that the appellants had not discharged their duty of investigating and exercising their own judgment on the heating-system installed. Mr. DesBrisay suggested that the Chief Justice of the High Court at trial ruled that the architects warranted the sufficiency of the heating system. We doubt that his

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language is capable of that construction, but we find it unnecessary to deal with that question and it is not to be taken to have been in any way passed upon.

*Appeal dismissed with costs.*

*Solicitors for the defendants, appellants: Cassels, Defries & DesBrisay, Toronto.*

*Solicitors for the plaintiffs, respondents: Edmonds, Maloney & Edmonds, Toronto.*

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BRENNAN  
AND  
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v.  
NELLIGAN  
AND  
NELLIGAN  
Kerwin C.J.

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\*PRESENT: Kerwin C.J. and Taschereau, Cartwright, Fauteux and Abbott JJ.