

## A. J. CHESTNUT COMPANY v. HARGRAVE.

Opinion delivered June 25, 1928.

1. LOGS AND LOGGING—INNOCENT PURCHASER OF LUMBER.—One who purchases lumber in good faith and for a valuable consideration, without knowledge of laborer's liens existing thereon, is to be protected.
2. PRINCIPAL AND AGENT—SCOPE OF AUTHORITY.—A principal is bound by the acts of his agent within the apparent scope of his authority.
3. PRINCIPAL AND AGENT—NOTICE TO AGENT.—Notice of the existence of laborers' liens to an employee of a lumber company who was inspector of lumber, who had charge of three lumber yards and

attended to the shipping of lumber therefrom, was notice to his employer, since such employee had apparent power to act for the company in the operation of such lumber yards.

Appeal from Drew Circuit Court; *Turner Butler*, Judge; affirmed.

STATEMENT OF FACTS.

James Hargrave and others instituted actions before a justice of the peace against the A. J. Chestnut Company and E. E. Huffstatler, to establish a laborer's lien on certain lumber. The plaintiffs recovered judgment in the justice court, and all the cases were appealed and consolidated for trial in the circuit court.

The case was tried before the circuit court sitting as a jury, and appellees introduced evidence to show the amount of their claims, and proved that they were entitled to a lien under the statute, unless the A. J. Chestnut Company was an innocent purchaser of the lumber from E. E. Huffstatler. On this branch of the case we copy from the record the following:

"That the defendant, A. J. Chestnut Company, admits that the plaintiffs in all these cases, and each of them, have by the testimony established their cases and are entitled to the respective judgments rendered in their favor in the lower court against E. E. Huffstatler, and that said respective judgments constitute a lien on the lumber involved in these cases as against said E. E. Huffstatler, and as against A. J. Chestnut Company, unless it be an innocent purchaser thereof for value, without notice of said lien, and that the proceedings for the attachment of said lumber in said case, and the sale thereof pursuant to the order of the justice of the peace court sustaining said judgments, were in all things regular; and defendant, A. J. Chestnut Company, further conceded that its lumber inspector, J. H. Huggins, at the time it purchased the lumber involved in this action, had notice of the existence of the plaintiff's laborers' liens on said lumber; but the defendant, A. J. Chestnut Company, denies that said notice and knowledge on the part of J. H. Huggins should be imputed

to it, and denies that said J. H. Huggins was such an agent of A. J. Chestnut Company as to charge A. J. Chestnut Company with his knowledge of the existence of said laborers' liens at the time it purchased said lumber; and it takes the position that A. J. Chestnut Company, by virtue of its purchase of said lumber pursuant to the contract introduced in evidence in this case, was, notwithstanding any knowledge of the existence of said laborers' liens on the part of J. H. Huggins, an innocent purchaser of said lumber for value, without notice, and is not bound by the plaintiff's laborers' liens established in these cases, or by the sale of said lumber to satisfy said liens; and this case is submitted to the court as the court and jury, upon the law and evidence, upon the single issue as to whether the defendant, A. J. Chestnut Company, was an innocent purchaser of the lumber involved in this action, for value, without notice of plaintiff's laborers' liens, notwithstanding notice of said liens had by said J. H. Huggins, its lumber inspector."

According to evidence for appellees, A. J. Chestnut Company had lumber yards at Winchester, Dumas and Readville, Arkansas, and J. H. Huggins was in charge of these lumber yards. He received the lumber purchased by the A. J. Chestnut Company in its yards and inspected the same. When the lumber was sold, he attended to the shipment of it. He had been in charge of these lumber yards for three or four years before the present suits were instituted.

According to the testimony of J. H. Huggins, his duty consisted in looking up lumber and inspecting lumber, and he stated that these were his only duties. He admitted that he inspected lumber at the yards of the company at Winchester, Dumas and Readville, Arkansas. He reported to the general office at Memphis, Tennessee, every time he made an inspection of lumber. The A. J. Chestnut Company was buying grade lumber from smaller mills and selling it to the trade. When any lumber was sold and shipped out, the orders for

it were given out by the company at the Memphis office. Witness had no authority to make payments to E. E. Huffstatler, nor did he receive payments for the lumber from him. The contract with Huffstatler for the purchase of the lumber in question was made by C. E. Strohm, the manager of the company. The contract was in writing, and provided for the purchase and sale of a stipulated amount of gum and oak lumber at a designated price. The contract recited that the lumber was to be cut by Huffstatler at his sawmill, about six miles from Winchester, Arkansas. The company agreed to advance him every two weeks, at his mill, \$20 per thousand feet for the lumber delivered to it.

The testimony of Huggins as to his authority was corroborated by that of C. E. Strohm. Strohm testified that Huggins was the inspector of the company, and that his duties with reference to the company were to inspect all lumber that the company bought at Winchester, Dumas and Readville, and ship it out upon the company's orders from time to time.

The circuit court found the issues in favor of appellees, and its finding of facts is as follows:

"That the defendant, A. J. Chestnut Company, was not an innocent purchaser of the lumber involved in this action, for value, without notice of the existence of plaintiff's laborers' liens thereon, but that said A. J. Chestnut Company, through its manager, C. E. Strohm, as well as through its agent, J. H. Huggins, had sufficient notice to charge it with knowledge of the existence of said laborers' liens at the time it purchased the lumber involved in this action; and the court finds for the plaintiffs on all of the issues in the said several actions." The case is here on appeal.

*Wooldridge & Wooldridge*, for appellant.

*John T. Cheairs and Williamson & Williamson*, for appellee.

HART, C. J., (after stating the facts). Counsel for the respective parties recognize the rule laid down in *Clark v. Wilson*, 171 Ark. 323, 284 S. W. 23, to the effect

that one who purchases lumber for a valuable consideration, in good faith, and without knowledge of liens existing thereon under the statute, is to be protected.

Counsel for appellant seek to reverse the judgment on the ground that there is no testimony in the record from which the circuit court might have found that appellant purchased the staves without any notice of the claims of appellees for liens. On the other hand, counsel for appellees seek to uphold the judgment on the ground that the evidence was sufficient to constitute notice to appellant. In making this contention, they rely upon the fact that Huggins was the general agent of appellant, or that at least he had apparent authority to act for appellant, and that knowledge to him was therefore knowledge to appellant. The rule in this State is that a principal is bound by all that is done by his agent within the apparent scope of his authority, and the authority given to and exercised by Huggins carried with it the apparent power to act for appellant in all matters connected with the operation of its lumber yards. In short, the general rule in this State is that the principal is bound by the acts of his agent which are within the real or apparent scope of his authority. *Security Life Ins. Co. of America v. Bates*, 144 Ark. 345, 222 S. W. 740; *Battle v. Draper*, 149 Ark. 55, 231 S. W. 869; *Bartlett v. Yochum*, 155 Ark. 626, 245 S. W. 27; *Ozark Mutual Life Association v. Dillard*, 169 Ark. 136, 273 S. W. 378; and *General Motors Acceptance Corporation v. Salter*, 172 Ark. 691, 290 S. W. 584.

Tested by this rule, we think that the circuit court might find that the appellant was not an innocent purchaser of the lumber. It is true that the evidence for appellant tended to show that the authority of Huggins was confined to inspecting lumber and shipping it upon orders given to him from the home office at Memphis. Be that as it may, the facts show that he at least had apparent authority in the premises. Appellant had three lumber yards in the same territory in the State of Arkansas. One of these was at Winchester, where the lum-

ber in question was received and inspected. Huggins had charge of all three of these lumber yards. He received and inspected all the lumber brought there. He attended to the shipping of all lumber from all of these yards. It is true that, according to the evidence for appellant, the lumber was shipped out upon order from the home office at Memphis, but all the shipping was done by Huggins, and all the lumber was received in each of these yards by him. In fact, he alone had charge of the yards. It is admitted that he had notice of the existence of the liens of appellees, and, under these circumstances, we think the circuit court was justified in finding as a fact that his notice was notice to appellant.

It follows that the judgment will be affirmed.

---