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On December 19, 2017, the Superior Court of Quebec allowed in part an *Application to Dismiss* under article 168 of the *Code of Civil Procedure* presented jointly by the named defendants in this litigation.

The plaintiffs commenced an action against a general contractor for defects affecting a house and its septic tank. The general contractor called in warranty the company who installed the septic tank, and the latter then called in warranty the engineer who conceived the plans and specifications for the septic system.

The defendants jointly requested that the action be dismissed on the ground that it was statute-barred. They argued that the 3-years limitation period (2925 C.C.Q.) began in April 2011, when the building and the septic tank were delivered. The action was commenced in December 2015, more than four years later and, consequently, the limitation period had been reached and the action should have been dismissed.

In response to those arguments, the plaintiffs argued that the work performed by the contractor after the delivery of the house had interrupted the limitation period. They argued that this interruption could be applied to all defects affecting the building, including the septic tank, given that the source of the obligations stemmed from the same contract of enterprise or for services.

The Honorable Carl Lachance, J.C.S. decided that the claim was based on separate and severable causes of action for contractual default, giving rise to distinct damages, and that the claim relating to the septic tank, was clearly statute-barred.

In his judgment, Justice Lachance determined that the plaintiffs had been aware of the defects affecting the septic tank as of May 2011 and that; consequently, their right of action arose at such time. The action had therefore been brought after the expiry of the three-year period, which ended in May 2014. As a result, the Court ruled that the engineer should be excluded from the dispute.

Regarding the other defects, the judge stated that, although the plaintiffs had knowledge of those problems affecting the building as of May 2011, the general contractor had carried out work four times since. This fact was likely to lead to recognition of the plaintiffs' right to compensation for faulty work, thus interrupting the limitation period (2898 C.C.Q.). Justice Lachance considered that it was neither clear nor obvious that this segment of the appeal was time-barred, and rejected the *Application to Dismiss* presented by the other defendants.

A takeaway from this judgment is that in contracts of enterprise or for services (2098 C.C.Q), where several professionals may be involved at different times and for different mandates, giving rise to separate and severable causes of action, limitation periods may expire for some

professionals and not for others. Therefore, counsel should not hesitate to analyze this issue with respect to a given professional and to raise such issue at preliminary stage if need be.

The engineer was represented by Belanger Longtin in this litigation.