

There was, on the facts of this case, a sufficient break in the possession to dissolve the relationship of principal and agent or bailiff, or guardian and ward, that existed between the respondent and the appellants.

Again, the right of the appellants to treat the respondent, in respect to her possession, as bailiff for them, rested upon equitable principles; and, in the circumstances, they were precluded, by their acts and conduct, from invoking the equitable doctrine upon which they relied: *Snider v. Carleton* (1915), 35 O.L.R. 246 (P.C.)

Appeal dismissed with costs.

FIRST DIVISIONAL COURT.

MARCH 21ST, 1916.

WHITE v. GREER.

Contract—Purchase and Sale of Saw-logs—Oral Agreement—Subject-matter—Whole of Season's Cut—Property Passing—Acceptance of Logs—Appropriation to Contract—Time for Delivery—Reasonable Time—Counterclaim—Appeal—Reversal of Finding of Trial Judge.

Appeal by the plaintiff from the judgment of CLUTE, J., at the trial, dismissing the action and awarding the defendant \$2,200 upon his counterclaim.

The action was brought to recover a balance of \$2,358.44 alleged to be due to the plaintiff for saw-logs and timber cut and taken out by the plaintiff during the season of 1913-1914, under an agreement not reduced to writing.

The counterclaim was for damages for non-delivery and for money overpaid.

The appeal was heard by MEREDITH, C.J.O., GARROW, MACLAREN, MAGEE, and HODGINS, JJ.A.

J. M. Ferguson and J. T. Mulcahy, for the appellant.

T. Johnson, for the defendant, respondent.

GARROW, J.A., read a judgment in which he said that the plaintiff's allegation was, that what he sold and what the defendant bought was the whole of the plaintiff's cut for the season of 1913-1914; while the defendant contended that his agreement was to buy only so much of the cut as was passed down stream into Sucker Lake in the season of 1914.

There was no doubt at all, in the opinion of GARROW, J.A., upon the whole evidence, written and oral, that the defendant intended to buy and did buy the plaintiff's whole cut, and not merely a part of it; and that the effect of what took