

no right to take credit for taxes paid in respect of lands occupied in the way above stated; and (2) that the defendant Beamish ought to account to the Synod for, and the Synod ought to collect from him and deal pursuant to the Act with, any sums which, upon the footing of the first-mentioned declaration, he has received or retained in excess of \$2,000 in any of the years 1912 to 1919, inclusive.

As between the plaintiffs and the defendant Beamish, there should be no order as to costs. The defendant Synod, being in the position of a trustee, should have its costs out of the fund in its hands.

LENNOX, J.

JULY 8TH, 1920.

NEELEY v. REID.

Vendor and Purchaser—Agreement for Sale of Land—Failure of Purchaser to Complete Purchase on Day Named in Agreement—Readiness of Vendor to Complete—Rescission by Vendor—Justification—Dismissal of Action for Specific Performance—Conduct of Vendor—Costs—Assumption of Mortgages by Purchaser—Substitution of Name of Grantee in Draft Conveyance—Covenant.

Action by a purchaser for specific performance of the vendors' (defendants') agreement to sell a lot of land and house thereon, situated in Indian Grove avenue, Toronto.

The action was tried without a jury at a Toronto sittings.

J. A. Paterson, K.C., for the plaintiff.

R. McKay, K.C., for the defendants.

LENNOX, J., in a written judgment, said that \$500 was paid by the plaintiff to the defendant, as a deposit or in part payment of the purchase-price, but no claim of forfeiture was asserted. It is to be repaid if the plaintiff does not get the property, and he holds a cheque for the amount. There were two mortgages upon the property. The first had not matured, and could not be paid off. The second mortgage was for a small sum; the mortgagee had agreed to accept payment and discharge it. The plaintiff was told of the existence of this mortgage at the time of his agreement to purchase, and it was understood and agreed at that time that he would pay it off, out of the purchase-money. That did not conflict with the terms of the written agreement. The plaintiff was to assume and be responsible for the first mortgage.