

It is fair to assume that this retainer was a factor in the settlement, if settlement there was, and . . . the client would not be bound by it. . . .

As to the suggested inability of the solicitor to prepare a bill—on the material this is not proved as a fact, and, if it were, it would not afford any excuse. . . .

Even if there had been a valid agreement, the solicitor owed a duty to his client to keep a proper record of the business done, as the preparation of a party and party bill might have been assumed to be, in the event of success, necessary in the client's interest. . . .

[Re Ker, 12 Beav. 390, and Re Whiteside, 8 Beav. 140, referred to, and the former distinguished. Reference also to Knock v. Owen, 35 S. C. R. 168, 172.]

The order will go for attachment. The attachment will not issue for two weeks; and if, in the meantime, the solicitor delivers a bill or a statement in writing that he makes no claim against the client for costs or disbursements, it will not then issue.

The solicitor must pay the costs of these proceedings in any event of the reference under the order already made; and the amount of such costs will be taken into account in ascertaining the balance upon the reference.

BRITTON, J.

MAY 27<sup>TH</sup>, 1910.

LACROIX v. LONGTIN.

*Deed—Rectification—Husband and Wife—Agreement by Husband to Convey Wife's Land—Conveyance by Husband—Wife Joining to Bar Dower—Estoppel—Specific Performance—Statute of Frauds—Damages—Breach of Covenant—Costs.*

Action for rectification of a deed or for specific performance of an agreement for the sale of land or damages.

The defendant J. B. Longtin was the owner of the land in question, the west half of lot 30 in the 7th concession of Cambridge, on the 17th October, 1904, when he executed a mortgage on it to the Toronto General Trusts Corporation for \$2,800, his wife, the defendant Zepherina Longtin, joining for the purpose of barring her dower. On the 4th August, 1905, the defendants executed another mortgage on the land for \$1,000 to one Magee. On the 16th November, 1906, the defendant J. B. Longtin executed