

The Court, however, directed that the defendants should be allowed one month in which to take advantage of section 168 of the Assessment Act by redeeming the lands they had sold and so preserving their claim for taxes both against the owner and the property, in which case the defendants would only have to pay the costs of the action and of the appeal.

*Hudson*, for plaintiff. *McLaws*, for defendants.

Full Court.] MORWICK v. WALTON. [Nov. 30, 1908.

*Damages—Breach of warranty—Costs unnecessarily incurred.*

Action for damages for breach of warranty in the sale of a stallion by the defendants to the plaintiffs. The plaintiffs had given the defendants their promissory notes for the price of the stallion, but these notes had been transferred to the Bank of Hamilton for value during their currency, and the plaintiff had no defence against the claim of the bank upon them.

*Held*, affirming CAMERON, J., that the plaintiffs had made out their case upon the misrepresentations and breaches of warranty of the defendants, but, varying the judgment in this respect, that the plaintiffs had no reasonable ground for defending a suit by the bank on the notes and, therefore, could not have their costs of such defence added to their other damages.

*Godwin v. Francis*, L.R. 5 C.P., at pp. 305 and 307, and *Roach v. Thompson*, 4 C. & P. 471, followed.

*T. R. Ferguson*, for plaintiff. *Galt*, for defendants.

Full Court.] [Dec. 1, 1908.

ROBERTSON v. CARSTENS.

*Principal and agent—Commission on sale of land—Appeal from findings of fact by trial judge.*

Action for commission for finding and introducing a purchaser for land owned by defendant. The plaintiffs were carpenters and tenants of the property under defendant. They were not real estate agents, but had occasionally earned commissions on sales. Defendant had never conferred on them any agency for the sale of the property, but wanted to sell and plaintiffs knew it.

One Forrester, passing by the property and thinking that it might be suitable for his purpose, entered the plaintiffs' shop