

TEETZEL, J.—Defendants did not at the trial dispute the representations proved by plaintiff, but contended that they were true, and that if in fact they were untrue they were not fraudulently made.

The evidence to prove falsity of the representations was not satisfactory to me, and, while I am in doubt as to the representations made by defendants' agent being literally true, I am clearly of opinion that plaintiff has failed to shew any fraud or deceit on the part of defendants or their agent, and therefore cannot in any event recover in this action.

In this form of action it is necessary for plaintiff to prove actual fraud, which may be done either by shewing that a false representation has been made knowingly or without belief in its truth, or recklessly, without caring whether it be true or false. See *Derry v. Peek*, 14 App. Cas. 337; *Angus v. Clifford*, [1891] 2 Ch. 449; *Lowe v. Bouverie*, [1891] 3 Ch. 82; *White v. Sage*, 19 A. R. 136.

The evidence in this case falls entirely short of any proof of actual fraud, and the action must be dismissed with costs.

ANGLIN, J.

DECEMBER 7TH, 1904.

WEEKLY COURT.

RE BAINSVILLE SCHOOL SECTION.

Public Schools—Formation of New School Section—Award of Arbitrators—Statutory Requirements—Area of Section—Number of Children of School Age—Determination of Arbitrators—Jurisdiction—Power of Court to Review.

Motion by the municipal corporation of the township of Lancaster and others to quash an award of arbitrators appointed by the county council of the united counties of Stormont, Dundas, and Glengarry, under sec. 42, sub-sec. 2, of the Public Schools Act, 1901. The arbitrators, upon the appeal of the present respondents, residents of the unincorporated village of Bainsville and its immediate vicinity, whose petition for the erection of a new school section the township council had refused, decided in favour of the formation of such new section, to be composed of parts of existing sections numbers 1, 2, 4, and 5 of the township of Lancaster.

D. B. Maclellan, K.C., for applicants.

J. A. Chisholm, Cornwall, for respondents.

ANGLIN, J.—Upon the argument of the motion I intimated that, in my opinion, I should not consider the grounds of alleged inconvenience, financial difficulties, etc., urged