

KELLY, J. :—There is little of merit in the plaintiff's case.

Briefly, the facts are the following. Levee, an agent, approached the defendant on the 3rd October, 1912, with a view to seeing if he would sell this property. Levee was not acting for the defendant; but, on the same evening, he returned with a written offer to purchase, signed by the plaintiff, and containing a term that time was to be of the essence of the offer. The defendant then accepted this offer, having stipulated with Levee that he was not to be liable for the payment of any commission; and he notified him, as the fact was, that he had not received the deed of the property. Levee received from the plaintiff a cheque for \$50, intended as a deposit, which, however, he did not turn over to the defendant.

Other terms of the offer were that the sale was to be completed on or before the 1st November, 1912; that the purchaser was to be allowed ten days to investigate the title; and that, if, within that time, he should furnish the vendor in writing with any valid objection to the title which the vendor should be unable or unwilling to remove, and which the purchaser would not waive, the agreement should be null and void, and the deposit should be returned without interest, and the vendor should not be liable for costs or damages.

In his evidence the plaintiff admitted that he bought property for speculation alone. On the 10th October, he and one Turkel, who, though it did not so appear in writing, had a half interest in the agreement for purchase, entered into a contract with one Rebecca Levi for the assignment to her of the agreement with the defendant, the contract with Mrs. Levi, however, being defeasible if the agreement with the defendant should not be closed by reason of any default on his part or because of any defect in title. The plaintiff did not, within the ten days allowed for that purpose, submit written objections to title; but, on the 17th October, 1912, the defendant's solicitor having some days previously submitted to the plaintiff's solicitor for approval a draft conveyance, the plaintiff's solicitor delivered to the defendant's solicitor written requisitions on and objections to title. On the 24th October, the defendant's solicitor made reply thereto, giving answers to some of the requisitions, but stipulating that the doing so was without prejudice to the defendant's rights under the contract, and merely for the purpose of assisting the plaintiff's solicitor in his search. This was followed by a letter of the 26th October from the defendant's solicitor, also written without prejudice, stating that the defendant was unable to furnish any evidence in answer to the requi-