

Province of British Columbia.

SUPREME COURT.

Clement, J.]

WATT v. WATT.

[Nov. 10, 1907.]

Divorce—Stare decisis—Divorce and Matrimonial Causes Act, 1857 (Imp.), how far in force in British Columbia—Jurisdiction of Supreme Court to grant decree of divorce a vinculo.

The Divorce and Matrimonial Causes Act, 1857 (Imp.), is not in force in British Columbia and the Supreme Court has no jurisdiction to grant a divorce a vinculo.

The decision in *S. v. S.* (1877) 1 B.C. (Pt. 1) 25, not being the decision of an appellate tribunal, nor of the Full Court sitting in banc, is not technically binding on the Court even when constituted of a single judge. The view of Begbie, C.J., in *S. v. S.*, adopted in preference to that of the other two judges (Crease and Gray, JJ.). That in the circumstances the rule stare decisis could not apply more particularly as the question is one of jurisdiction.

Semble. If the Court has jurisdiction it may be exercised by a single judge sitting as the Court.

Wilson, K.C., for the Attorney-General. J. A. Russell, for petitioner. Woodworth, for respondent.

Full Court.]

BAGSHAWE v. ROWLAND.

[Nov. 28, 1907.]

Principal and agent—Sale of land—Commission for securing purchaser, able and willing to purchase.

In order to earn his commission, the agent must produce to the vendor a party able, ready and willing to purchase on the terms given to the agent by the vendor, and if the transaction is prevented from becoming a binding contract only through the fault or default of the vendor, the agent does not thereby become disentitled.

Dictum of Lord Esher, M.R. in *Grogan v. Smith* (1890) 7 T. L. R. 132 followed.

A. E. McPhillips, K.C., for appellant, defendant. W. J. Taylor, K.C., for respondent, plaintiff.