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HIGH COURT OF JUSTICE.

MIDDLETON, J.

SEPTEMBER 17TH, 1912.

RE BOULTON AND GARFUNKEL.

Vendor and Purchaser—Contract for Sale of Land—Objection to Title—Rights of Way over Private Lane—Compensation.

Petition by Garfunkel, the purchaser, under the Vendors and Purchasers Act, to have it declared that certain rights of way, existing over what was referred to as a private lane, constituted an objection to the vendor's title, and for a reference to determine the amount of compensation to which the purchaser would be entitled if these rights were not released.

W. C. Chisholm, K.C., for the petitioner.

R. S. Cassels, K.C., for Boulton, the vendor.

MIDDLETON, J.:—John B. Boulton in his lifetime owned a block of land extending from Henry street to McCaul street, in the city of Toronto. By his will he devised this to his wife, with power to sell.

During his lifetime, Boulton and others, whose concurrence was necessary, had, on the 1st January, 1872, leased the entire parcel to R. B. Blake for a term of nineteen years and four months, with the right to purchase at the end of the term, at a valuation, if the parties failed to agree upon the price.

Blake subdivided the parcel, and laid out certain private lanes thereon, including the one in question. He erected houses upon some of the subdivided lots, and assigned the leasehold interest of these respective houses to different purchasers.

On the 13th June, 1891, Levi J. Clark, who had become the owner of one of these houses, obtained a conveyance of it from