

The action had been before the courts ad nauseam in one form or another—in the Master's office, in the Weekly Court many times, three times in the Appellate Division, and once in the Supreme Court of Canada.

It having been determined that, in making the sale of the goods to the plaintiff and obtaining the chattel mortgage, the defendant was guilty of fraud and misrepresentation, and the plaintiff entitled to damages, the Master was directed to ascertain, according to the principle laid down by the Court, what damages the plaintiff had sustained; and the Master found that the difference between the price the plaintiff agreed to pay and the real value of the chattels was \$1,600; but, because the contract-price was only partly paid, he found that the purchaser was not entitled to the whole \$1,600, but only to a part in the proportion which the amount which he actually paid bore to the whole contract-price—that part amounting to \$720.64.

In allowing only the smaller sum, the Master erred. The mode of calculation adopted left out of account the fact that the plaintiff obligated himself to the extent of \$1,600 more than what had been found to be the actual value of the goods at the time of purchase; and that, whether or not he had paid the full amount, his obligation continued.

The contract-price was \$3,500; the Master found that the real value of the goods was only \$1,900. No reason had been shewn for disturbing the finding in that respect.

In taking the mortgage account, the Master charged against the defendant the value of the goods at the time the defendant repossessed them. In doing so, he proceeded in accordance with the course indicated by the Appellate Division.

The Master's report should be amended by substituting \$1,600 for \$720.64, and making other changes in accordance with that change.

The plaintiff's appeal was allowed with costs, and the defendant's appeal dismissed with costs.

The learned Judge reprehended this "protracted and in many respects vexatious litigation."