

was granted to the defendant to amend his defence by setting up the Statute of Frauds. The learned Judge further finds that the parties were not ad idem as to payment of damages. Action dismissed without costs. R. I. Towers, for the plaintiff. D. L. McCarthy, K.C., and T. L. Monahan, for the defendant.

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MCKERCHEN v. MCCOMBE—LENNOX, J.—APRIL 6.

*Vendor and Purchaser—Agreement for Sale of Land—Building Restriction—Erection of Buildings—Distance from Street Line—Restriction Limited to Street on which Lot Fronts—Specific Performance.*]—Action by the vendor to compel specific performance of an agreement for the sale and purchase of the easterly 67 feet 10 inches of lot 99 on the north side of Burlington crescent, in the city of Toronto. There were certain building restrictions affecting the property, which, so far as important in this action, were: “(3) No house or outbuilding shall be erected which shall be nearer the street line than 20 feet at any part thereof. (4) No detached house shall be erected on lands of less frontage than 30 feet, and no semi-detached houses shall be built on lands less than 50 feet frontage.” The defendant contended that he was not bound to accept a conveyance and complete the purchase if the building restrictions compelled him to keep his buildings back 20 feet from the street line of Alberta avenue—a side street—as well as 20 feet back from the street line of Burlington crescent. Held, that restriction No. 3 does not prevent the owner of the easterly 30 feet or more of lot 99 from erecting a dwelling-house, or other building of the class defined in the restrictions, adjoining to and along the westerly side of Alberta avenue, and that the restriction as to 20 feet from the street line applies only to Burlington crescent, upon which lot 99 fronts. Judgment so declaring and for specific performance. No costs. H. J. Martin, for the plaintiff. C. M. Garvey, for the defendant.

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HEDGE v. MORROW—LENNOX, J.—APRIL 6.

*Title to Land—Improvements—Timber—Basis of Settlement—Conveyance upon Payment of Half of Value of Property and Rent Chargeable—Costs.*]—The judgment of LENNOX, J.,