

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and ROSE, JJ.

O. A. Sauvé, for the appellant.

J. A. Macintosh, for the defendant, respondent.

MEREDITH, C.J.C.P., read a judgment in which he said that there were just two questions involved in the case: (1) whether the description of the parcel said to have been sold was sufficient; and (2) whether the transaction was a real or only a pretended sale.

The description was, "the 50 acres across the road from" the purchaser.

When once it was known, as the parties knew, and as any one seeking to identify the 50 acres could find, that the buyer owned a farm on one side of a road and that the seller owned another farm on the other side of the same road directly opposite the buyer's farm, and that the seller's farm comprised two lots of 50 acres each, the one directly opposite the buyer's land, and the other the west 50 acres beyond that opposite the buyer's land, there can be no doubt about the identity of the land sold.

If the description had been "the seller's 50 acres," it would have been uncertain, because, as buyer and seller knew, the seller owned not only the two 50-acre parcels already mentioned but also a third 50 acres across another road opposite his 50 acres which were in the rear of the 50 acres opposite the buyer's farm.

The agreement was written and signed in the buyer's farmhouse, which is upon his land near the road between his farm and the seller's opposite 50 acres. The "lay of the land" made it plain that the description was accurate and ample.

On the other branch of the case, the defendant's tale was improbable; the writing was altogether against it, and so were the circumstances and the probabilities. The plaintiff was anxious to sell; the defendant was a likely purchaser of the 50 acres directly opposite his own farm. In support of the tale there was only the interested testimony of the defendant and his wife; and against it was the testimony of the plaintiff and also that of the defendant's witness Sequin as to statements made by the defendant to him. Much was made of the fact that the plaintiff's wife, who was present when the writing was drawn up and signed, and was a witness at the trial, was not recalled to deny the defendant's tale, told at the trial after she had given her testimony; but, as attempts made to adduce evidence from her, when in the witness-box, as to what was said on that occasion, were promptly stopped, on the ground that such evidence was inadmissible, perhaps the