

for breach by defendant of the contract in refusing to convey, alleging that the defendant had already conveyed the lot to another person.

Scott, J.:—The correspondence is not set out in the statement of claim, but it is before me on this application. The material portion of it so far as this application is concerned consists of a letter written by the defendant to the plaintiff Oct. 4, 1903, offering to sell the lot for \$500 on certain terms of payment. A letter from the plaintiff to defendant dated Oct. 17, in which, after referring to defendant's offer and specifying the lot, he says, "I accept your offer as stated and will forward you the agreement for sale on Monday." A letter from the plaintiff to the defendant dated Oct. 20, enclosing the down payment under the agreement and an agreement for signature by the defendant, and a letter from defendant to the plaintiff dated Oct. 28, on the ground that it provides for the payment by the latter of the taxes up to the end of 1903, and stating that he had heard he had sold the lot to some one else.

It was contended on behalf of the defendant that the contract is one which should be performed where he lived, as the purchase money must be paid to him there and the transfer executed by him there or tendered to him there for execution.

The plaintiff's letter of acceptance of defendant's offer to sell having been mailed here by the former the contract must be taken to have been made here: *Empire Oil Co. v. Vallerand*, 17 P.R. 27, and *Household Fire Ins. Co. v. Grant*, 4 Ex. D. 216. Such being the case I cannot see that this case is distinguishable from *Reynolds v. Coleman*, 36 Ch. D. 453. There the defendant, who resides in United States, was sued for specific performance of a contract made by him in England with the plaintiff, who carries on business there, to transfer to the plaintiff certain shares in an English joint stock company, and it was held by the Court of Appeal that the contract was one which ought to be performed in England. Cotton, L.J., says at p. 464, "The contract was to transfer shares. It was said that such a contract might be performed by the defendant's executing a deed of transfer in the United States. But that would not perform the contract. It would not be enough to execute in the United States or out of the jurisdiction a deed of transfer because the transferor must deliver that deed of transfer to the transferee, that is to say, to the plaintiff, and having regard to the fact that the contract to transfer the shares was a contract made in England and with the plaintiff, who was at that time carrying on business in and resident in England, the