

RIDDELL, J.:—The defendant is administrator of the estate of Mary Hughes. He determined to sell certain land belonging to the estate, and, the leave of the official guardian having been obtained (this being necessary by reason of a lunatic being interested), the land was offered for sale, subject to a reserved bid.

Before this time the plaintiff, who had been a tenant of the land, had, as I find, given up possession to the plaintiff, although he kept a few articles upon the premises by permission of the plaintiff.

The reserved bid was not reached, and plaintiff, who had bid at the sale, and defendant, went to the office of the defendant's solicitor, and, after considerable discussion, the plaintiff offered the sum of \$1,400 for the land. This was accepted by the defendant, but, as it was less than the reserved bid, which had been fixed by the official guardian, the plaintiff was informed that the consent of the official guardian must be obtained. He said that he must have the land at once or not at all, and the solicitor wrote out an offer on the back of the conditions of sale, which the plaintiff signed.

The defendant accepted this offer, so far as he was concerned, and signed below the offer of the plaintiff the following:—

“I think the above offer should be accepted. Thomas Hughes, administrator.”

It was arranged then and there that this should be sent to the official guardian with a letter asking the official guardian to telegraph the plaintiff on receipt of the letter if the offer was to be accepted.

This took place on Saturday 1st June, 1907. The defendant now pretends that he does not remember what took place on the Saturday in the solicitor's office, and that he was or must have been intoxicated. This, I find, is without the slightest foundation in fact—and I find that he was perfectly competent to do business and thoroughly understood what he was doing and intended to do it. On Monday morning 3rd June the official guardian telegraphed to the plaintiff accepting the offer on behalf of the lunatic—and afterwards the defendant telephoned to the office of the official guardian that he had received an offer for \$1,500. Before the receipt of the telegram the plaintiff had done a little work on the land, but had stopped—and he awaited the receipt of the telegram to take possession and do substantial work. I find as a fact that he did take possession on the strength of this