

Although *Rooke v. Dawson*, [1895] 1 Ch. 450, is not conclusive against this view, as there the deed was not mentioned in the advertisement (see p. 486), I do not think that the deed is by implication made part of the advertisement. But, if it were, the direction to purchase at the lowest price cannot mean precisely what the literal meaning of the words is. In the present instance there is an offer of 1,000 at 75; one of 1,000 at 76; one of 1,000 at 77; one of 7,900 at 77, &c. The bonds offered at the lowest price are those included in the offer at 75. It could not be contended that the purchase of the 1,000 at 75 would be a complete exercise of the powers given by the trust. The expression must, in a business document, receive a business interpretation—the meaning can be determined from a consideration of the object for which the power is given. The object is to redeem as many bonds as possible at the cheapest rate, to spend the money furnished by the company in reducing as much as possible the bonded indebtedness of the company. I am of the opinion that the method ultimately pursued by the defendants was unexceptionable from a business point of view, and was in no way a violation of the terms of the deed of trust.

I think the plaintiff fails in contract. If he be held entitled to recover in contract at all, I find that the market price of the bonds at the time of the breach was 75 — his damages will then be \$700.

The same considerations will also prevent him from recovering as *cestui que trust*.

The defendants have in the premises acted honestly and reasonably and ought fairly to be excused for the breach of trust, if there was one: 62 Vict. (2) ch. 15, sec. 1 (O.); *Higgins v. Trust Corporation of Ontario*, 27 A. R. 423; *Smith v. Mason*, 1 O. L. R. 594; *Henning v. Maclean*, 2 O. L. R. 169, 4 O. L. R. 666; *Re Village of Markham and Town of Aurora*, 3 O. L. R. 609; *Dover v. Denne*, 3 O. L. R. 664; *King v. Matthews*, 5 O. L. R. 228; *Elgin Loan and Savings Co. v. National Trust Co.*, 7 O. L. R. 1, 10 O. L. R. 41; *Chapman v. Brown*, [1902] 1 Ch. 785, especially at p. 805.

I am also of the opinion, as at present advised, that the other provisions in the trust deed protect the defendants, but I do not consider it necessary to pass upon that question.

The action will be dismissed with costs.