

Full Court.] CARROLL v. DOMINION COAL CO. [Feb. 12.

Deed—Covenant not running with land.

Plaintiff on his own behalf and other heirs of C. conveyed to the Low Point, Barrois and Lingan Mining Co., a certain lot piece or parcel of land described in the deed subject to certain reservations, provisoes, conditions and covenants to be performed and kept by the parties of the second part, their successors and assigns, one of which was that the parties of the second part, their successors, etc., should give or cause to be given annually to the party of the first part and his heirs sixty tons of slack coal for the benefit and use of the heirs of C.

The Low Point Co. conveyed the land described in the deed to the defendant company.

Held, that the covenant in relation to the supply of coal was not one running with the land, but was merely personal or collateral and was not binding upon the defendant company.

J. J. Ritchie, K.C., in support of appeal. *L. A. Lovett*, K.C., contra.

Full Court.] CROWE v. GOUGH. [Feb. 12.

Sale of goods—Breach of contract—Failure to prove damage.

Defendant contracted to purchase from plaintiff tobaccos to the amount of \$300 per week of such brands as plaintiff should have in stock at prices mentioned in a schedule delivered to defendant at the time of the making of the agreement.

Defendant failed to carry out his undertaking by purchasing to the amount agreed and finally ceased buying altogether.

Held, that the judge of the County Court erred in assessing damages for an estimated loss of profit that would have been earned by plaintiff if defendant had carried out his contract, in the absence of evidence to shew that plaintiff suffered any loss by reason thereof.

Per TOWNSHEND, C.J.:—On principle plaintiff was entitled to recover more than nominal damages, but in the absence of evidence to shew exactly what the damage was, it was impossible to allow the amount assessed by the County Court judge.

Per MEAGHER, J.:—There was a breach every time defendant failed to take goods according to contract and there was room for the contention that inasmuch as the terms of the contract required plaintiff to keep goods on hand, he would be entitled to