

APRIL 6TH, 1914.

## BELL v. COLERIDGE.

*Partnership—Purchase of Farm by Syndicate—Profits Received by two Members—Non-disclosure to Third Member—Liability to Account—Judgment—Injunction—Direction for Payment into Court—Enforcement under Rule 534—Declaration—Lien—Dissolution of Partnership—Parties.*

Appeal by the defendant Coleridge from the judgment of LATCHFORD, J., 5 O.W.N. 655.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, JJ.A.

M. Wilson, K.C., for the appellant.

D. L. McCarthy, K.C., for the plaintiff, the respondent.

The judgment of the Court was delivered by HODGINS, J.A. (after setting out the facts):—The respondent has . . . a clear right to complain that, when the syndicate or partnership was formed upon the faith of which he paid his money, and by which the Pratt farm became partnership or syndicate property, his partner, the appellant, received, as did Smith, a profit of \$50 per acre. They had failed to disclose to him that they were benefiting to that extent.

The respondent has, however, no cause to complain if he is held to the price he agreed to pay, save to the extent to which his partners have wrongly profited. The appellant has received \$2,500 to which the partnership is entitled; and, fortunately for the respondent, Dr. Smith agreed to let the appellant use it, and the appellant is, therefore, still chargeable with it.

The appellant contends that he is not bound by the partnership agreement, because what he dictated to Ellis was changed by the respondent. But the change related only to a question of management and the extent to which the appellant should control it—a matter which no one says was part of the arrangement on the 18th or 20th May. The appellant cannot now recede from that to which he did agree, and on the faith of which he used the respondent's money. The latter's position has been changed, and he has embarked on a speculation, and is entitled to insist on his rights.

The judgment, however, seems to go too far in declaring what those rights are. It is not in accordance with the evidence that the appellant bought for the respondent. He bought for