

had long expired, notwithstanding that an appeal to the Supreme Court of Canada, launched without leave, had been argued before that court upon the merits before being quashed for want of jurisdiction. See *Grimsby Park Co. v. Irving* (1908) 41 S.C.R. 35.

G. F. Shepley, K.C., for the defendants. *G. H. Kümer*, K.C., for the plaintiff.

HIGH COURT OF JUSTICE.

Meredith, C.J.C.P.] *DINEEN v. YOUNG.*

[March 25.]

Contract for sale of leasehold interest in land—Specific performance—Vendor holding under sub-lease—Objections of purchaser—Waiver—Approval of assignment—Easement of right of way not known to purchaser.

Action for specific performance of an agreement for the purchase by defendant of plaintiff's leasehold interest in land in the city of Toronto. The agreement was contained in an offer addressed to the plaintiff for the purchase of his leasehold interest in the land and building on a lot on the north side of King Street, Toronto, describing it by metes and bounds. The offer was accepted the next day. Among other provisions the agreement contained the following:—

"The vendor shall not be bound to produce any abstract of title or any title deeds or evidence of title except such as he may have in his possession, nor to furnish a surveyor's plan or description or proof that the buildings stand wholly within the limits of the said lands. The purchaser shall search the title at his own expense and shall have ten days from said date of acceptance (i.e., of the offer) to examine the same, and, if no written objection be made within that time, shall be deemed to have accepted the title."

The defendant relied upon various grounds as entitling him to refuse to carry out his contract, there being among them certain alleged misrepresentations which however were held not to be established; also that the land was subject to an easement or right of way and that the plaintiff had not in fact a lease from the owner in fee of the land but was a sub-lessee. There was upon the land at the time the agreement was made a three storey brick building composed of two tenements numbered 124 and 126 King Street West, which included one half of a stairway on the east immedi-