

value of \$1,000,000 in denominations of \$100, \$500, and \$1,000. These were secured by a mortgage to the defendants of the same date; and the plaintiff became the holder of \$10,000 thereof. In May, 1907, the defendants advertised for offerings of such bonds for redemption; the plaintiff offered his \$10,000 at 82; the defendants did not accept; they redeemed other bonds, but not those of the plaintiff.

On the 6th November, 1908, the plaintiff brought this action for breach of trust by the defendants as trustees, and (by amendment) claiming specific performance of a contract which he alleged had been made, or damages in lieu thereof.

No charge of collusion, fraud, or other impropriety was made against the defendants, but it was alleged that they had misinterpreted their deed of trust, and were liable as for a breach of their trust.

J. H. Moss, K.C., and C. A. Moss, for the plaintiff.

A. W. Anglin, K.C., and R. C. H. Cassels, for the defendants.

RIDDELL, J. (after setting out the facts and the provisions of the mortgage trust deed):—The plaintiff's claim in contract is put forward thus: The defendants are trustees under all the terms of the trust deed; one of these is that they "from the bonds offered . . . shall purchase those bonds which are offered . . . at the lowest price;" the advertisement and circular referred to the trust deed, and consequently the advertisement and circular should be taken as though the defendants were expressly promising to buy in accordance with the terms of the trust deed, i.e., the bonds which were offered at the lowest price; that this constituted an offer by the defendants to buy upon the tender at the lowest price; that the plaintiff did so tender; and consequently the defendants are bound.

Such cases as *Crandall v. Carbolic Smoke Ball Co.*, [1893] 1 Q. B. 256, *Johnston v. Boyes*, [1899] 2 Ch. 74, *Maskelyne v. Slattery*, 16 Times L. R. 97, *Warlow v. Harrison*, 1 E. & E. 295, 317, are cited in support.

No doubt, if this advertisement were to be read as saying, "We ask offerings of bonds, and will buy the bonds which are offered at the lowest price," then, if the offerings of the plaintiff were at the lowest price, the very offering might be considered an acceptance by the plaintiff of a contract offered to him by the defendants: see per Lindley, L.J., in [1893] 1 Q. B. at pp. 262, 263. But there is no such statement made in the advertisement. It is sought to import into the advertisement the terms of the trust deed.