

H. D. Gamble, K.C., for appellants.

Wm. M. German, K.C., for respondents.

HON. MR. JUSTICE LENNOX:—When judgment was entered in this action determining certain issues and referring the question of boundaries to the determination of the Local Master of this Court at Welland further directions and subsequent costs were reserved.

By the motion before me I am asked to set aside or vary the report of the learned Local Master upon the ground that his findings were contrary to the evidence, that evidence was improperly admitted and refused, that the defendants' counsel was treated unfairly, and that the defendants had no notice of the setting of the report.

I think the learned Master erred in his rulings as to both the admission and rejection of evidence on several occasions and that counsel for the defendants has some ground for complaint as to interruptions and statements by the Local Master during the hearing, but I am not able to come to the conclusion that anything was done or omitted which prevented the fair trial of the matters referred or that the conclusions reached and reported by the Local Master are erroneous.

The motion must be dismissed, but, as I have said, there is ground for complaint and it will therefore be without costs.

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HON. SIR G. FALCONBRIDGE, C.J.K.B.

JULY 2ND, 1913.

RE PIGGOTT & KERN.

4 O. W. N. 1580.

*Vendor and Purchaser—Application under Vendor and Purchasers Act—Prospective Litigation—Not to be Forced on Purchaser.*

FALCONBRIDGE, C.J.K.B., *held*, that as long as acceptance of a title involved a "reasonably decent probability of litigation" he would not force it upon an unwilling purchaser.

*Reid v. Bickerstaff*, [1909] 2 Ch. 319 and *Re Nichols & Van Joel*, [1910] 1 Ch. 43, followed.

Application by one Piggott, the vendor, under the Vendors and Purchasers Act, for an order declaring that the purchasers' objection to the vendor's title had been satisfactorily answered, and that a certain registered agreement did not form a cloud upon the title.