

recover damages for false and fraudulent representations made by the defendant in respect of a threshing outfit delivered by him to the plaintiff Cattanach as part of the consideration for land and chattels purchased by the defendant from Cattanach. The plaintiff Davis bought the outfit from Cattanach, and joined in the action, alleging some participation on the part of the defendant in the sale to him (Davis), and seeking in conjunction with Cattanach to hold the defendant liable for the loss sustained as a result of the purchase. The action was tried without a jury at St. Thomas. KELLY, J., in a written judgment, after stating the facts, found that the condition of the threshing outfit, particularly the engine, was not as represented by the defendant, who, knowing its true condition and its defects, concealed what he should have communicated to Cattanach, who relied upon and was induced by these representations to enter into the contract. The plaintiff Davis was not entitled to succeed. At the time of the resale to Davis, the defendant had parted with the outfit; his sale to Cattanach had been completed several days before, and he was in no way concerned in the outfit itself or in Cattanach's efforts to sell or the result of a resale. Davis swore that he relied upon what the defendant said about the outfit; but that evidence could not be accepted. There should be judgment for the plaintiff Cattanach against the defendant for \$800 and two-thirds of the plaintiffs' costs of the action, and judgment for the defendant dismissing Davis's claim without costs. W. H. Barnum, for the plaintiffs. R. G. Fisher, for the defendant.

RE SOLICITORS—LOGIE, J.—APRIL 15.

Solicitors—Bill of Costs—Retainer—Findings of Taxing Officer—Evidence—Taxation—Appeal—Costs.—An appeal by the solicitors from the report or certificate of the Taxing Officer at Toronto upon a reference for the taxation of a bill of costs rendered by the solicitors to Peter McDonald and others, as clients. The appeal was heard in the Weekly Court, Toronto. The questions raised were as to the retainer of the solicitors. The learned Judge disagreed with the findings of the Taxing Officer numbered 2 and 3 in his certificate, and was of opinion that the solicitors had established their retainer in respect of proceedings upon a certain reference and a certain appeal, and that the respondents called the "guarantors" were liable in respect of the items in the bill applicable to these proceedings and properly taxable. In regard to items in respect of services subsequent to the dismissal of the appeal, which related exclusively to a further appeal discussed but never taken, the learned Judge agreed with the Taxing Officer