

A. M. Lewis and F. F. Treleaven, for the plaintiff.

H. E. Rose, K.C., and T. Hobson, K.C., for the defendant.

HON. SIR WM. MULOCK, C.J.Ex.D. (V. V.):—The members of this Court are unanimously of opinion that the judgment appealed from is right, and the appeal should be dismissed with costs.

HON. MR. JUSTICE RIDDELL:—In my opinion the *dictum* of Eve, J., in *Bromet v. Neville* (1908), 53 Sol. J. 321, (cited on behalf of the appellant and referred to in Fry on Specific Performance, 5th ed., para. 525, p. 269), to this effect (as stated in the head-note), that “it is not every excess of authority by an agent that will vitiate a contract, and where such excess is not unreasonable, it will not operate to prevent specific performance of the contract,” is not a binding authority, as it was *obiter* and not necessary to the decision arrived at.

*Appeal dismissed with costs.*

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