

The Ontario Weekly Notes

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APPELLATE DIVISION.

FIRST DIVISIONAL COURT.

JANUARY 10TH, 1916.

OSHAWA LANDS AND INVESTMENTS LIMITED v.
NEWSOM.

Fraud and Misrepresentation—Sale of Land—Misrepresentation by Vendor-company—Evidence—Rescission—Return of Purchase-money—Restitution—Assignees of Purchaser—Findings of Trial Judge—Appeal—Third Parties—Indemnity—Agency Contract—Res Judicata—Costs.

Appeal by the plaintiff company from the judgment of MIDDLETON, J., 8 O.W.N. 260.

The appeal was heard by MEREDITH, C.J.O., GARROW, MACLAREN, MAGEE, and HODGINS, J.J.A.

I. F. Hellmuth, K.C., and H. C. Macdonald, for the appellant company.

N. W. Rowell, K.C., and E. M. Rowan, for the defendant, respondent.

E. T. Coatsworth, for the third parties Medcalf and Poutney.
No one appeared for the third party Maekenzie.

HODGINS, J.A., delivering the judgment of the Court, said that so far as the evidence and exhibits enabled the Court to comprehend the standards recognised and the methods employed in the sales which were the subject of this action, there was no reason to differ from the learned Judge's conclusion. Necessarily, in a case involving the making and the truthfulness of representations, the view of the trial Judge was entitled to great weight; and the evidence, when analysed, did not support the position taken by counsel for the appellant company on the argument, nor that put forward in the notice of appeal.