

A. F. Lobb, K.C., for the plaintiff.

A. R. Clute, for the defendant.

LENNOX, J.:—In the evidence, a Mrs. Coutts is spoken of as being the owner of or in occupation of lot 20 on the west side of Condor avenue, Toronto. On the 1st May, 1912, the defendant procured a conveyance of all the land between the southerly boundary of the Coutts property and Hunter street, that is to say, lots 21, 22, and 23, and the part north of Hunter street of 24, west of Condor avenue—a block of land having a depth from south to north, that is, from Hunter street to the Coutts property, of 91 feet and 7 inches.

Before and at the time of the negotiations and agreement between the plaintiff and defendant, the boundary line between the property of the defendant and the Coutts property was fairly well defined upon the ground by the Coutts building—a workshop at the north-west corner of the defendant's property—and, if not by a boundary fence, at all events by a line of old fence posts.

The defendant subdivided the western portion of lots 21, 22, 23, and 24 into four narrow lots, running north and south, having a frontage of about 18 feet each on Hunter street. These lots, if run north to the northern boundary of the defendant's land, would have a depth of 90 feet—or, to be exact, 91 feet 7 inches. On these lots the defendant erected two pairs of semi-detached dwelling-houses, the street numbers being 50, 52, 54, and 56. No. 56 is the one in question in this suit.

The defendant employed Woolgar and Atchison to sell No. 56 for him. He instructed them as to its location and boundaries; and, amongst other things, that it had a depth of 90 feet from south to north. Manifestly he also pointed out to them that the northern boundary would be the southern boundary of the Coutts lot.

The defendant's agents, in pursuance of these instructions, negotiated for the sale of this property to the plaintiff. They represented to the plaintiff that it was a good deep lot; shewed him where the northern boundary ran; and, to assure him that he would have a depth of 90 feet, they paced it off from Hunter street to the northern boundary of the defendant's land as hereinbefore described. Upon this representation and upon this basis, the plaintiff agreed to purchase this specific parcel of land for \$2,500. There was then an uncompleted building upon the property, which the defendant was to complete.