

And so it is even in a civil action, when fraud is charged. The man who alleges fraud must clearly and distinctly prove the fraud which he alleges.

If the fraud is not strictly and clearly proved as it is alleged, relief cannot be had, although the party against whom relief is sought may not have been "perfectly clear in his dealings with the plaintiff." *Mowatt v. Blake* (1858), 31 L. T. R. 387. This is a decision of the House of Lords; and the phrase which I have quoted is that of the Lord Chancellor (Chelmsford).

Applying this standard, the plaintiff fails to satisfy the burden imposed upon him. On cross-examination the plaintiff gives the following account of the representations which he says the defendant made to induce him (the plaintiff) to go into the company:—

"Q. I am speaking about the representation you say he made to you to go in; what was one? A. That there was going to be a lot of money in it.

"Q. That was a mere opinion? A. Yes.

"Q. That was your opinion, too, when it was explained? A. I was not after any money in it. I did not care that much for four or five hundred dollars; I went in more than anything else, I said, "That will be a good opportunity for Brodie to make good."

"Q. Was that the inducement that got you into it, to allow Brodie to make good, was that one of them? A. Yes.

"Q. What was the other? A. That Haines was so anxious for me to come in.

"Q. What else? A. That is all I can think of.

"Q. I may take it that the two grounds of representation or misrepresentation were: first, you were willing to go in to help Brodie to make good because he was a friend of yours and you were interested in him in some way? A. Yes.

"Q. Secondly, that this man Haines thought there was a good thing in the company? A. Yes.

"Q. Are these the only two grounds upon which you went in? A. No, he said our own auditor was going to be auditor; he was going to give us a report every month as to how they were doing.

"Q. That was true, their auditor was Mr. Vigeon? A. Yes.

"Q. And he was your auditor? A. He was our auditor.