

Province of Manitoba.

COURT OF APPEAL.

Full Court.]

CONLEY v. PATERSON.

[April 8.]

Vendor and purchaser—Specific performance—Agreement of sale—Reference to more formal contract to be subsequently prepared—Statute of Frauds.

A receipt given by the vendor's agents to the purchaser for the cash deposit on the sale of land subject to the approval of the vendor, if it contains all the terms of the contract and is sufficiently executed to satisfy the Statute of Frauds, and if the sale is subsequently approved by the vendor, will be binding on him, and the purchaser will be entitled to enforce specific performance notwithstanding the provision: "\$1,500 to be paid in cash on execution of the necessary agreement of sale" in the receipt there being no more formal agreement of sale executed afterwards. *Von Hatzfeldt v. Alexander* (1912), 1 Ch. 289; *Winn v. Gull*, 7 Ch. D. at 32; *Rossiter v. Miller*, 3 A.C. 1124, and *Munroe v. Heubach*, 18 M.R. 450, followed.

The signing of the receipt by the agents as "agents for owner" was sufficient to satisfy the Statute of Frauds, although the name of the owner was not stated in it. *Rossiter v. Miller*, 3 A.C. at p. 1140, followed.

O'Connor and Dysart, for plaintiff. *Galt*, K.C. and *C. S. Tupper*, for defendants.

Full Court.]

McNERNEY v. FORRESTER.

[April 8.]

Negligence—Fall of wall of damaged building—Liability of owner for damages caused by.

Appeal from judgment of Metcalfe, J., noted vol. 47, p. 625.

Held, that the owner of a damaged house whose walls are, to his knowledge, in danger of falling is bound to exercise the utmost diligence and cannot delegate to others, whether contractors, architects or engineers, the duty of taking effectual means of preventing the falling of the wall to the injury of persons occupying adjoining land or their property, and it is no excuse that he placed the matter in the hands of an architect or a building inspector upon whose skill he relied and that he, in good faith,