

The Ontario Weekly Notes

Vol. IV.

TORONTO, MARCH 28, 1913.

No. 28

APPELLATE DIVISION.

MARCH 18TH, 1913.

*SNELL v. BRICKLES.

Vendor and Purchaser—Contract for Sale of Land—Time of Essence of Contract—Failure of Purchaser to Close in Time—Duty as to Preparation and Tender of Conveyance—Construction of Contract—Specific Performance—Refusal—Discretion.

Appeal by the defendant from the judgment of FALCONBRIDGE, C.J.K.B., ante 707, awarding specific performance of a contract.

The appeal was heard by MULOCK, C.J.Ex., CLUTE, RIDDELL, SUTHERLAND, and LEITCH, JJ.

J. E. Jones, for the defendant, the vendor.

W. Proudfoot, K.C., for the plaintiff.

The judgment of the Court was delivered by SUTHERLAND, J. (after setting out the facts):—With great respect, I am unable to agree with the opinion of the learned trial Judge. I cannot see that there is anything in the whole clause referred to, or anywhere in the agreement, which takes this case out of the rule stated that the purchaser should prepare the conveyance at his own expense.

The agreement does not say that the conveyance is to be drawn by the vendor or at his expense. Indeed, I think that the expression “upon the acceptance of title and delivery of deed

*To be reported in the Ontario Law Reports.