

FALCONBRIDGE, C.J.

JULY 17TH, 1903.

TRIAL.

CONNELL v. JEWELL.

Vendor and Purchaser—Contract for Sale of Land—Delay—Action for Specific Performance—Interest—Costs.

Action by vendor for specific performance of contract, tried without a jury at Goderich.

E. Champion, K.C., for plaintiff.

W. Proudfoot, K.C., for defendant Jewell.

M. O. Johnston, Goderich, for defendant Boyle.

FALCONBRIDGE, C.J.—The parties all admitted that the agreement ought to be specifically performed, and the sole dispute was as to who was responsible for the delay. The only question of fact to be tried was on defendant Jewell's allegation that plaintiff should accept as cash Jewell's note for \$200. This I find against Jewell, holding that he has not satisfied the burthen of proof which lies on him to establish that arrangement. Defendants will have to pay the interest on the unpaid balance of purchase money. This litigation might easily have been avoided by the exercise of a little forbearance and discretion. As to this, one party is no more to blame than another. Declaration that the contract ought to be specifically performed. Costs to plaintiff against defendant Jewell only up to and inclusive of filing of statement of claim. No order as to costs or otherwise as between the two defendants. If any inquiry or reference is necessary, the parties may apply in Chambers touching costs of such inquiry, and generally.

McMAHON, J.

JULY 18TH, 1903.

WEEKLY COURT.

CRESSWELL v. HYTTENRAUCH.

Trade Union—Exclusion of Member—Interim Injunction—Illegal Organization—Speedy Trial—Terms.

Motion by plaintiff to continue injunction restraining defendants from excluding plaintiff from the union or federation of musicians by the device of surrendering their charter and taking out a new charter, leaving plaintiff and the members of his orchestra out of the new organization.

J. H. Moss, for plaintiff.

J. G. O'Donoghue, for defendants.