

PEPPIATT v. REEDER—RIDDELL, J.—MAY 20.

Damages—Deceit—Measure of Damages—Method of Estimating—Master's Report—Appeal—Reference back—Costs.—An appeal by the defendant from the report of the Master in Ordinary finding the plaintiff's damages at \$2,929.12, with interest upon \$1,000 (parcel thereof) at 3 per cent. from the 28th July, 1914, and upon the balance at 5 per cent. from the 13th March, 1915. Notes of previous decisions in the same case will be found in 8 O.W.N. 84, 257, 9 O.W.N. 121, 263. The present appeal was heard in the Weekly Court at Toronto. The learned Judge read a judgment in which he gave a full statement of the facts and history of the case. By an order made by MULLOCK, C.J. Ex., on the 29th October, 1915 (9 O.W.N. 121), the Master's former report was set aside, and it was referred back to him to inquire, determine, and report the damages sustained by the plaintiff by reason of the false and fraudulent representations of the defendant, on the principle of allowing to the plaintiff the difference between the actual value of the chattels and lease at the date the transaction was entered into, namely, the 28th July, 1914, and the contract price as agreed upon between the parties on that day. The whole matter, the learned Judge said, seemed to him a simple one. The plaintiff was deceived into a bad bargain; he cannot get out of it—he must abide by it; but he is entitled to damages for deceit. Let the amounts he is to pay and be paid be determined just as though they were not between the same parties, and set off one against the other. The Master did not deal with the case in this view, and his report could not stand; the case should be referred back to him to determine the rights of the parties upon the principles indicated. The plaintiff should pay the costs of the appeal and of the proceedings on the reference except so far as these can be made available in the reference back. J. J. Gray, for the defendant. Edward Meek, K.C., for the plaintiff.

CORRECTION.

In BEST v. RENAUD, ante 248, change the word "redemption" in the head-lines and in the 3rd line of the judgment to "redemise."