

long after notice of allotment, open to the appellant to seek to be relieved from his contract on the ground of mistake or misrepresentation. This applied also to other alleged misrepresentations.

The appeal should therefore be dismissed with costs.

FERGUSON, J.A.

JUNE 24TH, 1918.

MORRIS v. MORRIS.

Contract—Construction of Agreement between Partners—Remuneration of Partner for Services as Manager of Farm and Business—Appointment by Court as Manager—Construction of Order and Judgment—Virtual Appointment as Receiver—Officer of Court—Fair Remuneration.

An appeal by the defendant David Z. Morris from the report of the Local Master at Welland and the Master's finding that the appellant was not entitled to remuneration for his services as manager of a nursery and farm owned by the parties to this appeal as tenants in common.

The appeal was heard in the Weekly Court, Toronto.

W. N. Tilley, K.C., for the appellant.

G. H. Pettit, for the plaintiffs, respondents.

FERGUSON, J.A., in a written judgment, said that the parties had conducted business in partnership as nurserymen. In the spring of 1915, they decided to wind up the business, and then sold their trade-name and goodwill, but did not dispose of the farm or their other assets. On the 6th May, 1915, they agreed that the appellant should be manager of the farm and business until it could be sold, his remuneration being fixed at \$100 a month up to the 1st November, 1915, and, "if required" after that date, at the rate of \$150 per month, up to July, 1917.

On the 18th October, 1915, the plaintiffs notified the defendant that his services would not be required after the 1st November; but the defendant took the position that, as the farm had not been sold, and it and the business required a manager, the meaning of the agreement was that the farm could not be sold until July, 1917, and that he was to act as manager in the meantime, at a salary of \$150 per month.

Thereupon the plaintiffs commenced this action for partition or sale, and applied for the appointment of a receiver and manager