

in question for \$5,700; \$100 paid as a deposit, the balance by the assumption of certain incumbrances and the giving of a second mortgage. The terms called for completion on the 1st April, 1913; time to be of the essence of the agreement.

The parties placed the matter in the hands of their respective solicitors for completion; Mr. McBrady acting for the purchaser. Mr. McBrady had in his hands, as the result of some previous transactions, more than sufficient money belonging to his client to complete this transaction; and his client instructed him to use this money for the carrying out of the contract. The vendor needed the money for the purpose of enabling him to carry out another contract entered into upon the faith of its receipt. This fact was known to Mr. McBrady and his client, not merely from oral notice, but by a letter sent by the vendor's solicitor, Mr. Wherry, on the 3rd April.

Matters proceeded in the ordinary way between the solicitors, conveyances being prepared and approved, title being searched, requisitions made and answered; and Mr. Wherry was ready to close by the time named. Mr. McBrady failing to close, the letter already referred to of the 3rd April was written, followed by others pressing for closing. In the meantime, the vendor met the purchaser and complained of the delay. Mr. McBrady had made the excuse that his client had not placed him in funds. On learning this, the purchaser stated, as the fact was, that Mr. McBrady had always been in funds, and that there was no possible reason why the transaction should not be closed.

Nevertheless, it seemed to be impossible to bring matters to a focus. The purchaser stated his plight to the vendor's solicitor. Communication was had with the Crown Attorney, and the result was that the money was supposed to be forthcoming. On the 17th April, a letter was sent to Mr. McBrady by Mr. Wherry, pointing out the delay; that Mr. McBrady had now stated that he was in funds; and appointing Saturday the 19th to close the transaction; otherwise the whole matter would be called off, and the deposit forfeited; and stating that no extension would be allowed. This letter was delivered at Mr. McBrady's office on the 18th.

The appointment for the 19th was not kept. On the 21st, McBrady came, said he was ready to close, and the vendor and his solicitor proceeded to close the transaction. It was then stated and believed that Mr. McBrady had the funds required for this purpose. The closing did not take place until after banking hours and until after the registry office was closed. Mr. McBrady then gave his cheque for the amount payable on the