

When the agreement of the 14th July, 1911, was entered into it was supposed that an agreement for sale in the terms of the writing of the 29th July, 1911, had been reached, and the purpose of the former agreement was to settle the remuneration which the respondent was to receive for his services, the amount of it not having been previously arranged.

It turned out, however, that the writing of the 29th July, 1911, though purporting to be executed by the Canada Machinery Corporation, was not binding on it, and the company refused to purchase on the terms mentioned in it.

Notwithstanding its refusal to purchase on those terms, negotiations were carried on with a view to arranging terms, and these negotiations resulted in a sale being effected but upon terms much less beneficial than those which it was supposed had been come to.

To adopt the view contended for by the appellant would give to the agreement of the 14th July, 1911, a meaning different from that which in my opinion the parties to it intended that it should bear, and different from that which the language used in it imports.

Its object was plainly, as I think, merely to fix the commission which the respondent was to receive if the sale that it was supposed had been arranged for was made, and its effect is to leave open for arrangement between the parties the amount of the commission if a sale should be made on different terms.

It is not as if the respondent had been employed to bring about a sale on the terms of the writing of the 29th July, 1911. Had that been the character of his employment the cases cited by the learned counsel for the appellant might and probably would have applied and the respondent would not be entitled to recover; but that was not its character. His employment was, I have said, to endeavour to bring about a sale, not a sale on the terms of the writing or upon any terms except those which are to be implied from the nature of the transaction, that the person to whom the appellant desired to sell should be willing to purchase on terms to which the appellant would be willing to agree.

The case is, in my opinion, to be dealt with on the footing of the employment being that the respondent should bring the suggested purchaser and the appellant together and having done that and a sale having been eventually