

placed in such a position as to invite its occupancy by the respondent.

The appellant was practically lessee of the whole pavilion subject to the right of the public to enter and use it.

The duty of the occupier of premises to which the public have a right to resort is considered in *Norman v. Great Western R.W. Co.*, [1915] 1 K.B. 584.

The circumstances here brought the case within the rule laid down in that case, namely, that reasonable care must be taken to see that the premises are reasonably safe for persons using them in the ordinary and customary manner, and with reasonable care.

The appeal should be dismissed with costs.

MEREDITH, C.J.O., and GARROW and MACLAREN, JJ.A., concurred.

MAGEE, J.A., agreed in the result.

Appeal dismissed.

NOVEMBER 9TH, 1915.

*LUTTRELL v. KURTZ.

Division Court—Jurisdiction—Title to Land—Action to Recover Sale-deposit—Title Defective owing to Breach of Restrictive Building Covenant—Division Courts Act, R.S.O. 1914 ch. 63, sec. 61(a)—Appeal—Evidence not Certified—Secs. 127, 128(2).

Appeal by the defendant from the judgment of the First Division Court in the County of York in an action for the return of a deposit of \$100 made upon a contract for the sale and purchase of land.

The appeal was heard by MEREDITH, C.J.O., GARROW, MACLAREN, MAGEE, and HODGINS, JJ.A. *

G. T. Walsh, for the appellant.

G. Keogh, for the plaintiff, respondent.

HODGINS, J.A., delivering the judgment of the Court, referred to sec. 61 of the Division Courts Act, R.S.O. 1914 ch. 63, which provides that "the Court shall not have jurisdiction in