

We gave leave to the defendants to prove by affidavits an actual sale, which the plaintiff says he disputes; the defendants decline the offer—and, when an opportunity is once more offered them, they again decline. We did not think that, under the circumstances at the trial, more proof was needed. The defendants refuse to give further proof now, and the plaintiff will have full advantage of this refusal upon the appeal. But we cannot change our judgment. No costs. J. J. Gray, for the plaintiff. H. S. White, for the defendants.

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PRATT V. ROBERT HYLAND REALTY CO.—LENNOX, J.—FEB. 4.

*Fraud and Misrepresentation—Rescission of Contracts for Purchase of Lands—Return of Moneys Paid—Evidence—Findings of Fact.*—Three actions, by Bower E. Pratt, Moore, and Wesley Pratt, against Robert Hyland and Robert Hamilton, doing business as a partnership under the name “Robert Hyland Realty Company,” to have certain agreements made between each of the plaintiffs and the two defendants declared null and void and cancelled and to recover back the moneys paid by the plaintiffs to the defendants. The agreements were for the sale by the defendants to the plaintiffs of lots in a tract of land described as “Woodland Park, Wainwright, Alberta.” The plaintiffs alleged fraud and misrepresentation by the defendants and their agents. The learned Judge reviewed the evidence, in a written opinion of some length, and made findings of fact thereon, all in favour of the plaintiffs. He said that the case was one of “flagrant and unmitigated fraud.” Judgments for the plaintiffs, with costs, declaring the contracts null and void and directing the return of the moneys paid. A. E. Fripp, K.C., for the plaintiffs. W. J. Kidd, for the defendants.

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RE GILBERT—MIDDLETON, J.—FEB. 6.

*Will — Construction — Charitable Bequest — Distribution among Charities—Costs.*—Motion by the executors of Mary Gilbert for an order determining the charitable institutions entitled to take under the terms of a charitable bequest. The learned Judge determined that the fund, after payment of the executors’ costs, should be divided equally among the following institutions in the city of Toronto: the Infants’ Home and Infirmary; the St. Vincent Infants’ Home; the Children’s Home (Salvation Army); the Children’s Aid Society; the Children’s