

voce); and that this is its meaning here is, I think, shewn in the recital No. 4.

Nor is "profit" or "profits" wholly unambiguous. The primary meaning is "benefit or advantage," and that meaning is found very frequently indeed. See Words and Phrases Judicially Defined, sub voce, p. 5661. "There is no single definition of the word 'profits' which will fit all cases:" per Farwell, J., in *Bond v. Borrow*, [1902] 1 Ch. 353, at p. 366.

From the whole document it is, to my mind, clear that what was intended was this: McDougall, owning the land, agreed that, if Galbraith would pay one-half of the "expenses," he should receive one-fourth of the proceeds of the sales. No doubt, by a minute analysis of the agreement, arguments may be found against this interpretation; but, while we are to examine such a business document with care, we are not to scrutinise it microscopically or dissect it as with a scalpel. Taking the document as a whole and in connection with the circumstances of its formation, I cannot agree with the learned trial Judge.

A confusion of thought sometimes seems to arise by the use of language somewhat metaphorical. Here the land is said to pay the expenses. Strictly the payment is out of money which has been obtained by the sale of land. If I am right in my view, whenever any money was received for the sale of any land, as between the parties one-fourth of that belonged to Galbraith and three-fourths to McDougall—and should have been so credited; whenever any money was paid out for "expenses," one-half should have been debited to Galbraith and one-half to McDougall. Then it became a simple matter of bookkeeping. The whole effect was, that, instead of either procuring money from some other source, money on the spot to which they were entitled was used.

The method followed by the learned trial Judge makes McDougall pay not one-half but three-fourths of the expenses.

I think the appeal should be allowed with costs here and below. If the parties cannot agree, the reference may proceed; but it seems more convenient to order this to proceed before the Master in Ordinary, in Toronto.

*Appeal allowed.*