

which they not only never agreed upon, but also something they never would have agreed upon, and something that every business man would consider absurd. In this case no one seems to have ever thought of a longer time than five years; it would seem that the vendor would have made it not more than three years, whilst the purchaser would have been content with five; but it is not proven that either or any other term was actually agreed upon.

The trial Judge was, therefore, I think, right in his ruling upon this point, though it is really a broader one than one merely resting—as he seems to have put it—upon the Statute of Frauds; it is a question of contract or no contract in fact; and also adding to, by parol, a written formal document; as well as of a violation of the provisions of that statute; and, in my opinion, a judgment in the plaintiff's favour would be contrary to legal right in all these respects.

So, too, I think that, without reformation of the writing, the action fails, on the latter two grounds, in another respect.

The land described in the agreement is not that which was really sold; that is admitted on all hands, and is shewn in the deed which the vendor prepared and intended to deliver. The particular description does not cover the whole of the property; a quite substantial part is not included in it; nor can I think that the general description, "the premises situate on the north side of Bloor street west, known as King George Apartments, known as No. 568 and 570 Bloor street west, plan No. _____ as registered in the registry office of the city of Toronto," is, in the entire absence of evidence as to any such plan, and as to what was known as the "King George Apartments" or as "No. 568 and 570," can be held to supply the omitted part and rights. It would, of course, have been a very different case if the words were, "all the vendor's property known as and used in connection with the King George Apartments," for the omitted parts are a part of and rights used in connection with the land upon which the apartments are built; but there is no evidence to identify them with the apartments, which are the buildings, nor with Nos. 568 and 570, which are only, as far as appears in evidence, the street numbers.

The vendor has resold the property, and so specific performance and equitable rules are out of the question; the parties are upon their strict legal rights in that which is now an action for damages for breach of contract only.

I would dismiss the appeal.