

HON. SIR G. FALCONBRIDGE, C.J.K.B. MARCH 15TH, 1913.

BECKMAN v. WALLACE.

4 O. W. N. 949.

Vendor and Purchaser—Specific Performance—Inequitable Conduct by Plaintiff—Refusal of Relief.

FALCONBRIDGE, C.J.K.B., dismissed action for specific performance where the plaintiff's conduct had been so inequitable as to deprive her of her right to that remedy.

Action for specific performance of an agreement for the sale of a house on Major street, Toronto, tried at the Toronto Non-Jury Sittings.

Geo. Wilkie, for the plaintiff.

C. S. MacInnes, K.C., for the defendant.

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—The admitted circumstances of the case, are such as to deprive plaintiff of the equitable right to specific performance.

But there are faults, both of temper and of judgment on both sides, and some of defendant's difficulties are of her own invention. I think she said she was still satisfied with the price, and I do not see why the parties might not now agree, with the kind assistance of the respective solicitors, to carry out the contract.

Therefore, while I dismiss the action, I do so without costs.

HON. SIR G. FALCONBRIDGE, C.J.K.B. MARCH 14TH, 1913.

TAYLOR v. GAGE.

4 O. W. N. 947.

Injunction—Excavating Earth from Roadway — No Authorisation therefor—Injury to Plaintiff's Access—Damages—Reference.

FALCONBRIDGE, C.J.K.B., gave judgment for plaintiff for an injunction with a reference to the Master as to damages in an action to restrain defendant from excavating and taking away earth upon the road between plaintiff's and defendant's farms and thereby injuring plaintiff's access to his farm and the soil thereof.

Action by a farmer, for \$2,000 damages against defendant for excavating and carrying away the earth on the road between plaintiff's and defendant's farms, and for an injunction, tried at Hamilton.