

simple elderly woman, had been defrauded out of such lands. *Limercaux v. Vaughan* (1913), 25 O. W. R. 880; 5 O. W. N. 978.

## VENDOR AND PURCHASER.

**Action for damages—Purchase of interest in western lands—Evidence—Damages—Measure of.]**—Lennox, J., held, that the measure of damages in an action for damages for false and fraudulent representations by which the plaintiffs were induced to purchase an interest in certain lands was the difference between the price paid and the actual value of such interest.—*Stocks v. Bouter*, 47 S. C. R. 440, referred to. *McCallum v. Proctor, Armstrong v. Proctor* (1913), 25 O. W. R. 602; 5 O. W. N. 692.

**Action for specific performance—Dispute as to interpretation of agreement—Claim of purchaser for more land than vendor willing to give—Rescission by vendor—Evidence—Correspondence—Right of purchaser to claim in alternative—Return of deposit—Damages—Costs.]**—Britton, J., held, that where purchasers refused to complete a purchase of certain lands, claiming that they were entitled to more land under the agreement of purchase than the vendors were willing or able to give, and as a result thereof, the vendors rescinded the agreement, the purchasers were not entitled to ask the Court for specific performance of the agreement according to their interpretation and in the alternative for specific performance according to the vendor's interpretation, which in the opinion of the Court was the proper opinion. *Preston v. Luck*, 27 Ch. D. 497, distinguished. *Walker v. Skey* (1913), 25 O. W. R. 336; 5 O. W. N. 366.

**Action for specific performance—Incomplete agreement—Part payment by mortgage—No provision as to mode or terms of payment—No demurrer taken—Costs limited accordingly.]**—Meredith, C.J.C.P., held, that where a memorandum of agreement for the purchase of certain lands provided that part of the payment only was to be in cash, "the balance to be arranged by mortgage bearing 6 per cent. interest," the agreement was unenforceable as no provision was made for the mode or time of payment of such mortgage.—*Reynolds v. Foster*, 23 O. W. R. 933, followed. — That as this defence should have been raised as a question of law

on the pleadings, the costs of such a proceeding only should be allowed to defendant. *Stevens v. Moritz* (1913), 25 O. W. R. 453; 5 O. W. N. 421.

**Action for specific performance—Objections to title—Clause allowing rescission in case of unwillingness or inability to remove—Tender of conveyance—Non-acceptance—Termination of agreement—Damages—Costs—Dismissal of action.]**—Kelly, J., held, that where a contract for the sale of certain lands provided that if the purchaser made objections to title which the vendor should be unwilling or unable to remove, the agreement should be null and void, and objections were made which the vendor was unable to remove, but where nevertheless he made a tender of a signed conveyance which was not accepted, that the agreement was at an end and the purchaser could not ask for specific performance. *Fine v. Creighton* (1913), 25 O. W. R. 656; 5 O. W. N. 677.

**Action to rescind—Agreement—Entry by purchaser—Acts of waste—Certificate by solicitor as to good title—Former vendor and purchaser application—Order not issued—New facts—Dismissal of action.]**—Falconbridge, C.J.K.B., held, that where purchasers of certain lands had entered immediately upon the execution of the purchase agreement, as agreed, and had committed acts of waste, and where their solicitors who also acted for the vendors had certified to a good title, they could not afterwards rescind the contract upon the ground that the title was defective. *McNiven v. Pigott* (1913), 25 O. W. R. 871; 5 O. W. N. 921.

**Application by vendor for declaration that title satisfactory—Further evidence—Discharge of mortgage—Costs.]**—Lennox, J., held, in an application under the Vendors and Purchasers Act that the vendor, subject to the obtaining of certain further documents and evidence, had made a good title. *Re Wilson and Holland* (1913), 25 O. W. R. 693; 5 O. W. N. 768.

**Contract—Sale of Alberta lands—Alleged misrepresentations of agent—Opportunity of inspection by purchaser—Value and quality of land—Evidence—Failure of action—Foreign commission—Costs of.]**—Britton, J., dismissed an action brought for damages for alleged untrue representations made by defendants to plaintiffs on a sale by the former to the latter of certain Alberta lands.—*Scobie v. Wallace*, 24 O. W. R. 641, distinguished.—*Wilson v. Suburban*