

HEYNNEK V. SOVA—KELLY, J.—MAY 18.

Fraud and Misrepresentation—Sale of Farm—Representations by Agents of Vendor—Responsibility of Vendor—Damages.]—Action for damages for misrepresentation upon the sale by the defendant to the plaintiff of a farm in the township of Dover. The action was tried without a jury at Chatham. KELLY, J., read a judgment in which, after stating the facts and discussing the evidence, he stated his conclusion that the plaintiff had been induced to purchase the farm by false representations made to him by the defendant and his agents and representatives. The damages were assessed at \$1,850, for which sum and costs judgment was directed to be entered in favour of the plaintiff against the defendant. R. L. Brackin, for the plaintiff. F. C. Kerby, for the defendant.

RE NORTHERN QUARRIES LIMITED—MIDDLETON, J.—MAY 20.

Company—Winding-up—Liquidator—Liability of, for Repayment of Sum Paid by Person Proposing to Purchase Portion of Assets—Leasehold Property—Payment Made to Landlord to Avoid Forfeiture—Action in Division Court—Res Judicata.]—Appeal by Gibson Arnoldi & Co. from an order of the Master in Ordinary, in the course of a reference for the winding-up of a company, dismissing a motion by the applicant for a refund of \$100 paid by him to the liquidator. The applicant desired to purchase leasehold property of the company in liquidation, and made an offer of \$3,000, of which \$300 was paid with the offer. The applicant asked for an extension of time for making the payments, and this was granted to him upon the understanding that he should pay \$100 with which to meet a gale of rent due to the landlord, to prevent forfeiture. The \$100 was paid to the liquidator and handed over to the landlord. The applicant was unable to complete the purchase, and the Master rejected his offer, but not until far more delay had occurred than had been contemplated. The \$300 was refunded to the applicant. Before making any application in the liquidation proceedings, the applicant sued the liquidator in a Division Court for the \$100, and failed there after a trial upon the merits. The liquidator had paid the \$100 to the landlord and had no assets in his possession. The appeal was heard in the Weekly Court at Toronto. The learned Judge, in a written opinion, stated the facts and his conclusion thereon that there was no reason why the liquidator should be made personally liable for the \$100, and no ground for saying that the Master was wrong. Appeal dismissed with costs. F. Arnoldi, K.C., for the applicant. W. B. Raymond, for the liquidator.