

That was sufficient: Wills Act, R.S.O. 1914 ch. 120, secs. 30, 31; In re Jones (1886), 34 Ch. D. 65; In re Jacob, [1907] 1 Ch. 445.

The trustees also asked to be discharged. They were entitled, upon passing their accounts, to be discharged from the trusts of the settlement.

There should be a reference to J. A. C. Cameron, Official Referee, to fix the trustees' compensation, tax costs on a solicitor and client basis, and pass the accounts.

MIDDLETON, J.

MAY 28TH, 1920.

CRAWFORD & WALSH v. C. W. LINDSAY CO. LIMITED.

*Contract—Formation—Agreement for Lease—Statute of Frauds—Agent—Letter to—Instructions for Preparation of Formal Lease—Lack of Accord as to Important Matter—Action for Breach of Agreement not Established—Costs.*

Action for specific performance of an agreement for a lease, or for damages for breach of the agreement, or for damages for deceit.

The action was tried without a jury at Kingston.

A. B. Cunningham, for the plaintiffs.

T. J. Rigney, for the defendants.

MIDDLETON, J., in a written judgment, said that specific performance was out of the question, as one Wilson, who was in possession under another lease, was not a party to the action; and it was admitted that a case for damages for deceit had not been made out.

Considering the claim for damages for breach of the agreement, the learned Judge found that the plaintiffs had suffered substantial loss by reason of what was done; but he feared that they were without remedy.

The offer to lease contained a clause stipulating for an option to renew. When the offer was sent to Lindsay, representing the defendants, the option-clause was struck out, and it was not his intention to accept save with this modification. No written assent was given to this modification of the offer. The most that could be said was that, when the plaintiff Crawford saw the pencil-marks striking out the option-clause, he made no dissent. The clause was not discussed with Grace, the defendants' agent, when the proposition was made. A letter from Lindsay to Grace gave instructions for the preparation of a formal lease, which,