

or term arranged between the defendants and Mrs. Stevenson with regard to the strip of land in question, no allusion to it is to be found either in the agreement or in the deeds which they procured her to sign. Although they admit that it was agreed that this strip of land should be held by them subject to some trust for its use as a public highway, the conveyances which they took vest this property in them absolutely and free from any condition whatever. On the whole, I am driven to the conclusion that in all respects in which the testimony of either Flannigan or Cameron is in conflict with that of Mrs. Stevenson and her daughter, I must reject the former and accept the latter.

It only remains to consider whether, upon the story as told by Mrs. Stevenson and her daughter, a sufficient case is made out for rectification upon the ground of fraud. It is not necessary to find that Messrs. Flannigan and Cameron designed to do Mrs. Stevenson any real harm or wrong in this matter, and I acquit them of any such intent. She held the legal title to the strip of land, as she told Flannigan, as trustee for the Canadian Pacific Railway Company. She had no apparent beneficial interest in it. I think it quite probable that the defendants, appreciating this, thought it would put them in a better position to deal with the Canadian Pacific Railway Company in respect of this strip of land, if the legal title were vested in themselves, and that it would do plaintiff no real injury if they included this land in the conveyances which they obtained from her, even though she did not intend that it should be so included.

At all events, I find as a fact upon the evidence, that the plaintiff never did intend to convey the strip of land in question, and that the defendant Flannigan was aware from the outset that she intended to reserve it, and that she was of opinion that she had no right to convey it. The defendant Cameron is bound by the knowledge of the defendant Flannigan, whether it was communicated to him or not.

The taking of the agreement and conveyances including this strip of land was, in these circumstances, in my opinion, fraudulent. Mrs. Stevenson was admittedly a sick woman at the time that the execution of the conveyances was procured. She had been very unwell for some time before, and, according to her own story, was not quite fit to do business when the sale agreement was signed. Throughout the whole transaction she had no independent advice. Instead of allowing her to have the deeds prepared by her own solici-