

plete agreement in writing, and a person who is a party and knows the contents, subscribes it as a witness only, she is bound by it, for it is a signing within the statute:" In re Hoyle, [1893] 1 Ch. 84. As to objections to title where there is an outstanding mortgage: *Grieves v. Wilson*, 25 Beav. 290, 75 L.T.R. 602. As to the right of amendment when the Statute of Frauds is not pleaded, see *Brunning v. Odhams*, in the House of Lords, 75 L.T.R. 602; *McMurray v. Spicer*, L.R. 5 Eq. 527. As to the right of the purchaser to take what the vendor has: *McLaughlin v. Mayhew*, 6 O.L.R. 174; *Campbell v. Croil*, 3 O.W.R. 862; *Bradley v. Elliott*, 11 O.L.R. 398.

The judgment of the Court below should be reversed, and judgment entered for the plaintiff, with costs here and below.

SUTHERLAND and LEITCH, JJ., concurred.

RIDDELL, J., agreed in the result.

*Appeal allowed.*

JUNE 25TH, 1913.

BINDON v. GORMAN.

*Partnership—Establishment of—Oral Agreement to Divide Profits of Land Transactions—Validity—Evidence—Basis of Division—Costs.*

Appeal by the defendant Gorman from the judgment of LENNOX, J., ante 839.

The appeal was heard by CLUTE, RIDDELL, SUTHERLAND, and LEITCH, JJ.

G. F. Shepley, K.C., and J. J. O'Meara, for the appellant.

G. E. Kidd, K.C., for the plaintiff.

M. J. O'Connor, K.C., for the defendant Murray.

RIDDELL, J.:—The defendant Gorman is a man of some means, but a very defective memory, living in Ottawa; the defendant Murray is a land speculator; and the plaintiff, a common friend of these two.

In 1905, the defendant Murray was in need of money to enable him to go west to ply his business. Talking with the plain-