

The trial Judge held that there was no real dispute as to boundaries, and that Smith's version of the bargain was the correct one. No reasons were given by him for the judgment in favour of Catherine Travers. The original appeal was by plaintiff against Catherine Travers, and after cross-appeal by defendant John Travers, plaintiff also asked that damages against John Travers be increased to amount claimed.

C. W. Plaxton, Barrie, for plaintiff, argued that a demand of the value of goods was equivalent to a demand of the goods: *Thompson v. Shirley*, 1 Esp. 31; that admissions of the husband in this case were binding on the wife: *Phipson on Evidence*, pp. 74, 213, and 220; estoppel by pleading: *Richardson v. Jenkin*, 10 P. R. 292; licensee estopped in law: *Phipson on Evidence*, p. 610; *Bigelow on Estoppel*, p. 542; admissions in evidence: *Clarke v. Fisher*, 3 O. W. R. 358; conversion: *Stimson v. Block*, 11 O. R. 96.

[Meredith, C.J., referred to the assignment being one of a claim for a wrongful act, and not good according to *Dawson v. Great Western and City R. W. Co.*, [1904] 1 K. B. 277.]

W. A. Boys, Barrie, for defendants, relied on *Huffman v. Rush*, 3 O. W. R. 43.

The judgment of the Court (MEREDITH, C.J., ANGLIN, J., MAGEE, J.), was delivered by

MEREDITH, C.J.—This case has been argued with an ability and energy worthy of a much more important one, and I do not think we need to delay giving judgment.

It is impossible to interfere with the finding of the learned Judge, where he has preferred the testimony of witnesses on one side to that of witnesses upon the other, or to interfere with his estimate as to the damages.

I think there was some evidence that the trees for which the damages have been assessed at \$20, were cut upon the lands of plaintiff. The evidence of defendant John Travers has been read by Mr. Plaxton, and that proves it, I think, sufficiently, taking all the other circumstances into consideration, and there was *prima facie* evidence of the ownership by plaintiff of the land on which the trees in question were cut. That being so, it is impossible to disturb the judgment against defendant John Travers for the \$20.

As to defendant Catherine Travers, we think that she is liable as for a conversion of the timber as chattels.

There is evidence that, before the timber was worked into the barn, it was lying upon her farm, when a demand was made for the value of the timber as having been unlawfully