

claimed for damages for breach of a covenant by the plaintiff contained in an agreement. The learned Chief Justice said that the \$3 a day mentioned in the agreement should be regarded as a penalty, and not as liquidated damages. The defendant should be allowed \$250 damages, plus a sum sufficient to balance the plaintiff's claim for interest. From the plaintiff's claim for \$500, there should be deducted the defendant's set-off or counterclaim of \$250, leaving a balance of \$250 due to the plaintiff. The balance of the costs of the action on one side and of the counterclaim on the other fixed at \$75 in the plaintiff's favour. Judgment for the plaintiff for \$250 and \$75 costs. G. N. Weekes, for the plaintiff. M. P. McDonagh, for the defendant.

CARIQUE v. CATTS AND HILL—LENNOX, J.—JAN. 20.

Fraud and Misrepresentation—Purchase of Interest in Invention—Contract—Rescission—Amendment of Pleadings—Damages.]—Action to set aside a sale by the defendants to the plaintiff of an interest in a patented lamp invention and for the return of \$5,000 paid. The learned Judge discussed the evidence, and finds that the defendants conspired to deceive and cheat the plaintiff, and made false representations to the plaintiff, whereby he was induced to buy the interest and pay the money, and that the plaintiff has not ratified or confirmed the contract. The learned Judge gives all parties leave to amend in conformity with the evidence and to reply to the amendments. If difficulties arise, application may be made to the learned Judge. He is also of opinion that it is better that the plaintiff, instead of pursuing his rights against the defendant Hill under an agreement for reimbursement, should directly claim to recover against the two defendants by reason of the concerted fraud and misrepresentation; and the plaintiff is to have leave to amend accordingly if he desires to do so. Judgment setting aside the contract entered into with the defendant Catts so far as it affects the plaintiff, and against both the defendants for the loss sustained by the plaintiff, with costs; but the record will not be endorsed until the amendments are made. R. B. Henderson, for the plaintiff. H. D. Gamble, K.C., for the defendants Catts. W. E. Raney, K.C., for the defendant Hill.