

CLUTE, J.:—The defendant listed the property with the plaintiffs, real estate brokers, in Toronto, for sale. It is clearly established that the plaintiffs brought the property to the notice of Mrs. Rough, who subsequently became the purchaser. The house was examined by her at the instance of the plaintiffs. Mrs. Rough is under the impression that her attention was first brought to the house at the instance of her brother-in-law, Mr. Blackie; and in this, I think, she is mistaken. . . .

Subsequently another brother-in-law of hers got in communication with one of the builders, and so with the defendant, and, acting for Mrs. Rough, finally agreed upon the purchase-price, which was \$100 less than the defendant had instructed the plaintiffs to accept. . . .

It may be fairly found, upon the evidence, that the sale would not have been brought about but for the action of the plaintiffs.

But it is said—and the judgment below proceeds upon this sole ground—that the sale was in fact made by the defendant without knowing at the time that the attention of the purchaser had been brought to the premises by the plaintiffs. Upon this ground, the trial Judge found for the defendant, following *Locators v. Clough*, 17 Man. L.R. 659 (C.A.) Phippen, J.A., by whom the judgment of the Court was given, says: "I have no doubt that, had the defendant sold with knowledge that the property had been introduced to Forrest by the plaintiffs, he would be liable for some commission. I cannot, however, hold that the mere introduction of the property to Forrest, without endeavouring to negotiate or in fact negotiating a sale, is itself an earning of the agreed commission, the owner effecting a sale on terms less favourable than those expressed in the commission contract, in ignorance of the plaintiffs' action, and under circumstances which did not place him upon inquiry."

I do not take this to be the law. A number of the cases bearing upon this point are referred to in *Sager v. Sheffer*, 2 O.W.N. 671. . . . "If the relation of buyer and seller is really brought about by the act of the agent, he is entitled to commission although the actual sale has not been effected by him:" *Green v. Bartlett*, 14 C.B.N.S. 681; *Street v. Smith*, 2 Times L.R. 131. . . . *Mansell v. Clements*, L.R. 9 C.P. 139; *Wilkinson v. Alston*, 48 L.J.Q.B. 736; *Burchell v. Gowrie and Blockhouse Collieries Limited*, [1910] A.C. 614; *Stratton v. Vachon*, 44 S.C.R. 395.

The plaintiffs having brought the parties together and a sale having been effected by their intervention, it is not sufficient,