

and it is perfectly evident from his own statement that Grant was a person who was willing to pay at least \$500 more for the property and probably a considerable advance on that: *Manitoba and N. W. Land Corp'n. v. Davidson*, 34 Can. S.C.R. 255."

Where a person knowing that another person was an agent for the sale of certain lands entered into an agreement with him for the purchase thereof on joint account in his own name, upon the understanding that they should each be owners of one-half the lands and share profits equally upon a re-sale and the agent transferred one-half his interest to a third person who gave valuable consideration therefor, with knowledge, however, at the time of his transferor's agency for the sale of the lands, and shortly after the conveyance of the land by the owner to the first party above mentioned they were re-sold to a fourth person at a large profit, the owner was allowed, in an action brought by him against the three after he had discovered the nature of the transaction, to recover the amount of the profits which they had realized upon the re-sale of the land made by the three together with the amount of the commission paid by him on the sale of the lands as shared in by each: *Pommerenke v. Bate*, 3 Sask. L.R. 51, per Johnstone, J. Attention should be called to the fact that this judgment was varied by the Supreme Court of Saskatchewan (*Pommerenke v. Bate*, 3 Sask. L.R. 417), in which it was held that the transferee of the agent was under no obligation to account for profits, he being a *bona fide* purchaser for valuable consideration and this latter judgment was affirmed by the Supreme Court of Canada *sub nom. Coy v. Pommerenke*, 44 Can. S.C.R. 543. The agent did not appeal and therefore as to him the trial Court's judgment remained in force.

It is well established that the acceptance of an agent of a secret commission from the other side disqualifies him from recovering any remuneration from his principal: *Miner v. Moyie*, 19 Man. L.R. 707.

The principal may in an action for that purpose recover back the commission which he has paid to the agent notwithstanding that he has already recovered from the agent the secret commission paid him by the purchaser for effecting the sale: *Andrews v. Ramsay*, [1903] 2 K.B. 635, 72 L.J.K.B. 865, 80 L.T. 450, 52 W.R. 126, 19 Times L.R. 620. Lord Chief Justice Alverstone said: "A principal is entitled to have an honest agent, and it is only the honest agent who is entitled to any commission. In my opinion, if an agent directly or indirectly colludes with the other side, and so acts in opposition to the interest of the principal, he is not entitled to any commission."

Attention may here be called to a case distinguishing *Andrews v. Ramsay*, [1903] 2 K.B. 635, *supra*, though not strictly in point in this note as it is concerned with the sale of goods, in which an auctioneer was held not to be disentitled to retain his commission under an agreement providing that in addition to a lump sum by way of commission he was to be paid all "out-of-pocket expenses" including the expenses of printing and advertising where it appeared that in his account of such