

Act, and said that, in his opinion, the new appointment was valid, and the infant grandchild was entitled to the fund.

LENNOX, J., agreed in the result.

Order accordingly.

SECOND DIVISIONAL COURT.

FEBRUARY 18TH, 1916.

*BENNETT v. STODGELL.

Vendor and Purchaser—Agreement for Sale of Land—Statute of Frauds—Consideration—Rule against Perpetuities—Offer or Option—Attempt to Withdraw—Acceptance—Indefiniteness of Agreement—Failure of Vendor to Carry out Agreement—Sale to other Persons—Addition of Purchasers as Defendants—Remedy against in Damages—Remedy against Vendor—Measure of Damages—Assessment—Costs.

Appeal by the defendants from the judgment of SUTHERLAND, J., ante 174.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and MASTEN, JJ.

E. D. Armour, K.C., for the appellants.

J. H. Rodd, for the plaintiff, respondent.

MEREDITH, C.J.C.P., read a judgment in which he dealt with and discussed all the points raised by the appellants, viz.: (1) that there was no contract sufficient to satisfy the provisions of the Statute of Frauds; (2) that there was no consideration for any agreement to sell; (3) that, if there was any such agreement, it was invalid under the rule against perpetuities; (4) that the offer to sell was validly retracted; (5) that the contract was too indefinite to be enforceable; (6) that the plaintiff had not sustained any legal damages by breach of the agreement.

The learned Chief Justice's conclusion was against the appellants upon each of the points numbered (1) to (5) inclusive.

Taking up the 6th contention, the Chief Justice said that upon the direction for a new trial, and the trial had accordingly, to assess the damages for the plaintiff, sustained in consequence of the seller's breach of his contract to sell, two subsequent purchasers had been added as defendants, and it seemed to have been taken for granted that they were equally liable, with the contractor, for the breach of his contract, to which they were in no sense parties or privies. As there was no pretence that they