

contract is not regarded as intentional but merely through inability to do so. (3) Liquidated, where the amount is previously agreed upon in case damages should be awarded. (4) Speculative, where the profits that would have resulted from the performance of the contract are known, they may be recovered. (5) Exemplary, where for a malicious violation of a contract a sum in excess of the actual loss is awarded as a punishment.

78. Injunction and Mandamus.—Where a person is doing something he contracted not to do, or is infringing upon the rights of another, an order may be obtained from the court restraining him from further action until the case has been legally adjudged. This order is called an injunction and can be obtained from the judges of the higher courts.

The same judges may grant a Mandamus, ordering one to do his duty in a particular case. This is usually used against a public official.

79. Place of Suit.—In case of trial for breach of contract the place where the contract is made is where the suit will be tried. Contracts made by letter have for their place where the letter of acceptance was signed, hence there the suit should be. The place of contract in regard to real estate is where the real estate is situated. A note not made payable at any definite place would be sued where it was dated; but if payable at some other place, then that would be place of suit.

Goods ordered or sold from store or warehouse and taken by purchaser or shipped from there, would generally have that place for place of suit. But goods delivered by a traveller to the retail dealer, the place of suit would be there.

But Section 85 of the Division Courts Act of Ontario says: "The action may be entered and tried in the court nearest to the residence of the defendant, irrespective of the place where the cause of action arose," and the same permissive power is given the courts in all the Provinces.