

MR. JUSTICE CLUTE, and HON. MR. JUSTICE RIDDELL, on the 9th October, 1912.

D. W. Saunders, K.C., for the plaintiffs, appellants.

C. A. Moss, for the defendants, respondents.

Their Lordships (V.V.), dismissed the appeal with costs.

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DIVISIONAL COURT.

OCTOBER 9TH, 1912.

ROBINSON v. REYNOLDS.

4 O. W. N. 112.

*Principal and Agent — Agent's Commission on Sale of Land — Purchaser Procured who Refused to Carry out Purchase — Right of Agent to Commission.*

Action to recover commission on sale of defendant's property. Plaintiff procured one Foster to make an offer for the purchase of the property which defendant accepted. Later Foster refused to complete and plaintiff brought action claiming that their duty had been performed when a binding contract had been entered upon.

BRITTON, J., *held*, 22 O. W. R. 124; 3 O. W. N. 1262, that the facts established that the commission was "to be paid out of and form part of the purchase money, and as no purchase money had been paid plaintiffs could not recover. Action dismissed with costs.

DIVISIONAL COURT affirmed above judgment.

See *Hunt v. Moore*, 19 O. W. R. 73.

An appeal by the plaintiffs from a judgment of HON. MR. JUSTICE BRITTON, 22 O. W. R. 124; 3 O. W. N. 1262.

The appeal to Divisional Court was heard by HON. SIR WM. MULOCK, C.J.Ex.D., HON. MR. JUSTICE CLUTE, and HON. MR. JUSTICE RIDDELL, on the 9th October, 1912.

G. H. Watson, K.C., for the plaintiffs, appellants.

C. A. Moss, for the defendants, respondents.

THEIR LORDSHIPS (V.V.), dismissed the appeal with costs.