

The Ontario Weekly Notes

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TORONTO, JANUARY 25, 1911.

No. 18.

COURT OF APPEAL.

JANUARY 17TH, 1911.

*GOODALL v. CLARKE.

Damages—Sale of Unlisted Shares—Breach of Contract—Measure of Damages—Evidence as to Value—Price Actually Realised by Seller—Adoption by Person Entitled—Prices Realised by Others—Exceptional Circumstances—Assessment of Damages by Divisional Court—Appeal.

Appeal by the defendant from the order of a Divisional Court, 21 O.L.R. 614, 1 O.W.N. 1131, varying an order made by MEREDITH, C.J.C.P., upon the hearing of an appeal from the report of an Official Referee.

The appeal was heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, J.J.A.

F. E. Hodgins, K.C., for the defendant.

R. S. Cassels, K.C., for the plaintiff.

MOSS, C.J.O.:—The whole question is as to what sum the defendant should pay the plaintiff as damages for breach of the contract the defendant made with the plaintiff for the sale to him of 20,000 shares in the capital stock of the Lawson Mine Limited. . . .

The circumstances in which the defendant committed his breach of contract were unusual. He had bound himself to the plaintiff to deliver or procure to be delivered to him 20,000 shares out of a much larger block of shares, the certificate for which had been issued to the defendant. The certificate was in the custody of the Court pending an appeal to the Judicial Committee of the Privy Council. The defendant, having been advised that the appeal could not succeed, entered into an agreement for the sale of his holding of shares, including the 20,000

*This case will be reported in the Ontario Law Reports.

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