

the defendant agreed to sell and Jerou to buy at \$4,600, on terms of \$3,000 cash and the balance on mortgage. Jerou was in a rented house and had to move, and one of the conditions of the sale by the defendant was that he should get possession by the 15th September, 1911. Jerou signed nothing, and could not, therefore, be compelled to carry out the contract.

Jerou took the matter of getting possession into his own hands; he was attending to the matter of obtaining possession himself, and he told his solicitor that, if he could not get possession by the 19th September, he would not take the property. Jerou went to the property, and it was arranged that he should get possession on the 19th; and, at the cost of considerable inconvenience, everything was out of the house and the property ready for him by that day. But Jerou did not take possession; he made some complaint about the title, which was absolutely groundless, as appears by his own solicitor's evidence. He suggested taking the house for a month as tenant, and, if he thought it was fit, he would take and buy the house. The defendant saw the plaintiff about the matter, as did her son; to the son he said, "There is a flaw in the sale;" to the defendant, "Well, the sale is off for some flaw in the title."

The solicitor for Jerou was waiting to be put in funds by Jerou, and was in a position to close the sale if he had received the funds. He had been instructed not to carry out the transaction unless possession was given by the 19th September. On being called upon by the vendor's solicitor on the 19th to close the sale, he replied that he had no funds; and the next day Jerou telephoned him not to carry it out; not to close; he was not going on with the deal. The defendant did not let the house to Jerou; but, thinking, and justifiably thinking, that the deal was off, she went again to Mr. Ponton and reappointed him, instructed him to try and sell it again, as he puts it.

About the 27th December, Mrs. Jerou, apparently without the knowledge of her husband, came into Ponton's office and made inquiry about the property—she said she had seen it—and it was arranged that Ponton's representative, Dunlop, should call and see Mr. Jerou in the evening. He did so: and negotiations commenced, Dunlop asking a rather high price. The Jerous then said that they had been offered the property for \$4,600: and Dunlop agreed to submit that figure. He saw the defendant, the terms were accepted, and a contract signed, without much, if any, delay. The sale was carried out on practically the same terms as had been arranged through the plaintiff.