

FERGUSON, J.

AUGUST 22ND, 1902.

TRIAL.

## DUPRAT v. DANIEL.

*Lease—Fraud in Obtaining—Executed on Sunday—Lessor Signing Improvidently without Independent Advice.*

Action to have a certain indenture of lease declared void for fraud, misrepresentation, and deceit, and because it was executed on Sunday, and improvidently, without independent advice. At the trial the allegation of fraud was abandoned.

J. B. Rankin, K.C., for plaintiff.

J. A. Walker, K.C., for defendant.

FERGUSON, J., held, that improvidence and want of independent advice cannot support the plaintiff's case, as these are only circumstances which have been regarded as in a special degree marks of undue influence and fraud: May on Fraudulent Conveyances, 2nd ed., p. 496. Held, also, that the present case does not come within R. S. O. ch. 119, sec. 7, or R. S. O. ch. 246, sec. 9; that the lease was not made on Sunday, at the time of its actual execution, but many days before.

Action dismissed with costs.

Lewis & Richardson, Chatham, solicitors for plaintiff.

J. A. Walker, Chatham, solicitor for defendant.

AUGUST 22ND, 1902.

DIVISIONAL COURT.

## MASON v. LINDSAY.

*Replevin—Conditional Sales Act—Contract of Hiring with Option to Purchase.*

An appeal from judgment of LOUNT, J., in a replevin action tried at London, November 4th, 1901, in respect of a piano belonging to the respondents, which was in the possession of one Thody under an agreement between him and the respondents at the time he mortgaged it to the appellant. The question was whether the respondents were prevented from setting up their title to the piano as against the appellant by reason of the Conditional Sales Act, R. S. O. ch. 149. The respondents, the Mason & Risch Piano Co., Limited, Toronto, were the manufacturers of the piano, and the words "Mason & Risch" were stamped on it.

Joseph Montgomery, for appellant.

J. S. Johnston, for respondents.