

but he could know nothing of blocks 9, 10 and 11 without a plan.

He was taken by a Mr. Smith, who acted for the plaintiff in getting the contract in question, to see the land. No doubt Mr. Smith correctly, and in a general way, pointed out the land. The defendant was satisfied with the quality of the soil.

The plaintiff told the defendant that he intended to get a plan made which would shew the location of the five acres he proposed to sell to defendant. The alleged contract was drawn up by the plaintiff, and upon the representation by the plaintiff as to the plan, the defendant signed the offer for blocks 9, 10 and south half of 11, part of lot 30, concession D. . . . containing five acres more or less, according to proposed plan of subdivision made by W. S. Gibson, O. L. S.

The defendant employed a solicitor to search the title. This writing does not say whether the subdivision would be of north half or south half of lot 30, and the plaintiff was interested in each half.

Unfortunately the solicitor began his search upon the north half, and soon found difficulty. The plaintiff had not a satisfactory title to part of the north half, and the solicitor so reported, and was informed that these blocks were part of the south half of lot 30; but the search was not continued, by reason of there being no registered plan of the proposed subdivision. The plan was not completed before the 30th July. Plaintiff's letter of that date, apologizing for not replying sooner to requisition of defendant's solicitor, says that the surveyor expected to have the plan ready that evening.

On the 20th August, defendant's solicitor wrote to plaintiff's solicitor as follows:—

“Toronto, Aug. 20th, 1913.

B. N. Davis, Esq.,
Barrister, &c.,

Continental Life Bldg., City.

Dear Sir:

Re Hunt & Lawson.

Our client is anxious to have this matter closed immediately as we are satisfied with the title. As you know we are unable to certify to same, and have not yet been able to get from you the draft deed, although the sale was to be closed on the 15th of August.