

this and the other sum to his client, after the payment of all taxable costs.

The other items objected to, for journeys and extra fees and the like, will be considered and taxed by Mr. Thom.

The solicitor should pay the costs of appeal up to this point; the other costs of reference reserved.

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BRITTON, J.

JUNE 21ST, 1907.

TRIAL.

BOWERMAN v. FRASER.

*Vendor and Purchaser—Contract for Sale of Land—Specific Performance—Undertaking of Purchaser to Build—Condition—Representation—Acts of Agent of Vendor—Waiver—Acceptance and Retention of Cheque for Part of Purchase Money—Time for Making Payments—Time of the Essence of the Contract—Tender of Formal Agreement for Execution by Vendor.*

Action for specific performance of an agreement for sale of land by defendant to plaintiff.

S. H. Bradford, for plaintiff.

J. W. McCullough, for defendant.

BRITTON, J.:—The agreement in question in this action is made by an offer on the part of plaintiff to purchase from defendant lot 3, plan 352, on the south side of Bloor street, Toronto, as particularly described in the offer dated 2nd February, 1907, for the sum of \$2,775, which offer was accepted by defendant on 4th February, 1907. The offer was made through W. O. McTaggart & Co., as agents for the sale of this lot, and the acceptance by defendant is in these words: "I hereby accept the above offer and its terms, and covenant, promise, and agree to and with the said F. D. Bowerman to duly carry out the same, on the terms and conditions above mentioned, and I also agree with the said agents to pay them the usual commission."