

DUGGAN v. McCAULEY—BRITTON, J.—Nov. 9.

Principal and Agent—Purchase of Property by Agent for Principal—Evidence—Declaration—Conveyance—Damages—Adjustment of Account—Costs.—Action by the surviving trustee of the Dale estate for a declaration that the defendant, in procuring an option for the sale to him of land adjoining the nurseries of the Dale estate at Brampton, together with plant and nursery stock, from one Fendley, was acting as the plaintiff's agent, and accepted the option and obtained a conveyance from Fendley as such agent, and for a conveyance of the land, possession, and damages. The action was tried without a jury at Brampton. BRITTON, J., in a written judgment, found the facts in favour of the plaintiff, upon conflicting evidence, and gave judgment declaring that the defendant holds the land and the other property for the plaintiff, and ordering the defendant to convey the land to the plaintiff, and to hand over the stock and plant purchased from Fendley, upon the plaintiff assuming the payment of the balance of the purchase-money and all existing mortgages and liabilities. The learned Judge said that he was unable to find that the plaintiff had suffered any specific damage for which the defendant ought to pay. Reference to the Local Registrar at Brampton, if the parties cannot agree upon the amounts to be paid by the plaintiff. The defendant must pay the plaintiff's costs of the action. H. H. Davis, for the plaintiff. C. R. McKeown, K.C., for the defendant.

NOTE.

In *STOVER v. LAVOIA* (1906), 8 O.W.R. 398, not elsewhere reported, a case of considerable importance, decided by the late Chancellor, Sir John Boyd, there is a curious mistake or conglomeration of mistakes on p. 399. The 3rd paragraph on that page should read as follows:—

“The like conclusion was reached in the United States at an early period: *Handly's Lessee v. Anthony* (1820), 5 Wheat. 374, 385, where Marshall, C.J., said: ‘The shores of a river border on the water's edge,’ i.e., at low water.”