

fullest appreciation of, and giving the fullest weight to, the many advantages of a trial Judge, who sees and hears the witnesses, over any court of appeal that does not, I cannot but agree in the conclusion of the Divisional Court that the judgment at the trial was wrong and should be reversed.

Without at all differing from the view of the Divisional Court on the question of the Statute of Frauds, I feel bound to say that I do not see how that enactment can be, on any question affecting land, applicable to this case, which is substantially but one for money received by the defendants for the use of the plaintiff.

HODGINS, J.A., for reasons given in writing, agreed in the main with the judgment of the Divisional Court, but was of opinion that it should be varied by confining it to the leases other than those of McNinch, Pettigrew, and McLaren, leaving it to the Local Master to determine whether the \$2,200, mentioned as the consideration in the option and in the subsequent assignment, should be reduced, having regard to these three subsequently-acquired leases, and to the state in which negotiations for them were on the 19th April, 1911.

GARROW, MACLAREN, and MAGEE, J.J.A., concurred.

Judgment varied accordingly.

JANUARY 27TH, 1913.

*RE DINNICK AND McCALLUM.

Municipal Corporations—Buildings “on Residential Streets” of Cities—Limitation of Distance from Line of Street—Consolidated Municipal Act, 1903, sec. 541a—By-law—Validity—Application to Building on Corner Lot—“Fronting or Abutting.”

Appeal by W. L. Dinnick from the order of a Divisional Court, 26 O.L.R. 551, 3 O.W.N. 1463, dismissing a motion for a mandamus to the Corporation of the City of Toronto and the City Architect (McCallum) to issue a permit to the appellant for the erection of an apartment house on the north-east corner of Avenue road and St. Clair avenue, in the city of Toronto.

*To be reported in the Ontario Law Reports.