

FALCONBRIDGE, C.J.

FEBRUARY 3RD, 1903.

TRIAL.

MURPHY v. BRODIE.

Principal and Agent—Purchase of Land by Agent—Account—Mortgage—Release of Surety.

Action for compensation, indemnity, an account, and payment of what is due to plaintiff, in respect of a purchase of land made by plaintiff for defendants.

J. E. O'Connor, Windsor, for plaintiff.

F. E. Hodgins, K.C., for defendant Brodie.

F. D. Davis, Windsor, for defendant Stuart.

FALCONBRIDGE, C.J., held that defendant Brodie had no independent advice, but relied on plaintiff as his solicitor. The full and accurate details of the extraordinary arrangement of the \$2,900 mortgage were never disclosed to Brodie, and when the mortgage was executed it was a different one from any mortgage "to secure balance of purchase money" which could have been contemplated. This effects a release of defendant Brodie, who was a surety for Margaret Stuart. Further, there have been subsequent dealings of plaintiff with the matter which would alter Brodie's position and render it impossible for plaintiff, on being paid off by Brodie, to transfer to him the securities to which Brodie would then be entitled. Action as against Brodie dismissed with costs. Judgment for plaintiff against the estate of the late Margaret Stuart for an account. On taking the account the mortgage to McLaughlin to be declared to be a mortgage for \$700 only, and the mortgage to plaintiff a mortgage for \$500 only. The Master also to take an account of rents and profits received or which should have been received, and of rent due by estate of Margaret Stuart. Plaintiff to convey to defendant executor on payment of amount found due. Further directions and costs of this action reserved until after report.

FEBRUARY 3RD, 1903.

DIVISIONAL COURT.

REX v. SWANTON.

Municipal Corporations—By-law Governing Hawkers—Conviction—Form of—Imprisonment for Costs—Evidence of Breach of By-law.

Motion to make absolute a rule nisi to quash a conviction of defendant, made by the police magistrate for the town of Paris, for a breach of a town by-law for licensing, regulating,